

**CITY COUNCIL MINUTES**  
**December 10, 2012**

The Honorable Council of the City of Evansville met on regular session at 5:30 p.m. on Monday, December 10, 2012 in the City Council Chambers, Room 301 Civic Center Complex, Evansville, Indiana, with President Connie Robinson presiding. The following business was conducted.

**These minutes are not intended to be a verbatim transcript. Audiotapes of this meeting are on file in the City Clerk's Office.**

**ROLL CALL:**

**Present:** McGinn, Mosby, Brinkerhoff-Riley, Friend, Lindsey, Adams, O'Daniel, Weaver, Robinson.

There being nine (9) members present and zero (0) members absent and nine (9) members representing a quorum, I hereby declare this session of the Common Council officially open.

**PLEDGE OF ALLEGIANCE**

This evening the pledge of allegiance will be led by Councilman Weaver

**President Robinson:** Fellow Councilmen and those in the audience, welcome to the December 10, 2012 meeting of the Common Council.

**RECOGNITION OF SCHOOLS**

**TEEN ADVISORY COUNCIL**

Anna Loehr, Abby Wilson, Dorothy English, Will Boston, Lana Dipple

**COUNCIL ATTORNEY**

This evening John Hamilton is our City Council Attorney.

**SERGEANT AT ARMS**

This evening Officer Hassler is our Sergeant at Arms.

**READING AND AMENDMENT OF MINUTES**

Is there a motion to approve the minutes of the November 26, 2012 meeting of the Common Council as written?

Councilwoman Mosby moved and Councilman Friend seconded the motion to approve the minutes of the regular meeting of the Common Council held November 26, 2012 as written. Voice vote. So ordered.

**REPORTS AND COMMUNICATIONS**  
**IN YOUR DECEMBER 7<sup>TH</sup> PACKET:**

- \*City Council Meeting Agenda for December 10, 2012.
- \*Committee Meeting Schedule.
- \*City Council Meeting Minutes dated November 26, 2012.
- \*Rezoning Ordinance R-2012-19 as amended with Use and Development Commitment.
- \*Ordinance F-2012-22 as amended.
- \*Ordinance G-2012-23 as amended.
- \*Ordinances G-2012-27, G-2012-28, G-2012-29, G-2012-30

- \*A memo from Kevin Kirkwood regarding G-2012-26.
- \*Return receipts and inter-office reports for Ordinance G-2012-23.
- \*Evansville Redevelopment Commission Minutes from November 20, 2012.
- \*Monthly schedule of meetings in the City/County Building for December 2012.
- \*Listing of City Council Appointments for various boards with expiration dates.
- \*2012 PERF Spreadsheet from Controller Russell G. Lloyd.
- \* A memo from Controller Russell G. Lloyd and the August 31, 2012 Fund Balance.

**ON YOUR DESK THIS EVENING:**

- \*Councilmanic District Maps (2012 and proposed 2013)

**President Robinson:** Do I have a motion to receive, file and make these reports and communications part of the minutes of the meeting?

Councilwoman Mosby moved and Councilwoman Riley seconded the motion to receive, file and make these reports and communications a part of the minutes of the meeting. Voice vote. So ordered.

**CONSENT AGENDA**

**FIRST READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-27**                      **A.S.D.**    **MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for the Taxicabs for Yellow Cab/Checker Cab for 2013

**ORDINANCE G-2012-28**                      **A.S.D.**    **MOSBY**

An Ordinance amending Chapter 8.10 (Nuisances) of the Evansville Municipal Code (Abandoned Vehicles)

**ORDINANCE G-2012-29**                      **A.S.D.**    **MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for the Taxicabs for Dave's Taxi Service for 2013

**ORDINANCE G-2012-30**                      **A.S.D.**    **MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for the Taxicabs for Mighty Cab, LLC for 2013

**President Robinson:** Is there a motion to adopt the Consent Agenda, First Reading as written?

Councilwoman Riley moved and Councilman O'Daniel seconded the motion to adopt the Consent Agenda, First Reading as written. Voice vote. So ordered.

**CONSENT AGENDA**

**SECOND READING OF ZONING ORDINANCES**

**ORDINANCE R-2012-19 (amended) FROM APC**    **R-1 to C-02 w/U & D Comm.**

An Ordinance to Rezone Certain Real Estate in the City of Evansville, State of Indiana, more commonly known as 4000 Washington Ave., Evansville, IN

Petitioner:                      David W. Johnson  
 Owners:                      Ralph and Diane Sellers  
 Representative:                      Steven Bohleber  
 District:                      Dan McGinn, Ward 1

This petition comes forward with a recommendation for denial from the Area Plan Commission, having 12 negative votes. (This was prior to the Use and Development Commitment being filed)

**President Robinson:** Is there a motion to adopt the Consent Agenda Second Reading of Zoning Ordinances and to accept the Area Plan Commission Report?

Councilman O'Daniel moved and Councilwoman Riley seconded the motion to adopt the Consent Agenda Second Reading of Zoning Ordinances and to accept the Area Plan Commission Report. Voice vote. So ordered.

Council now stands at Third Reading of Zoning Ordinances, which is final action.

### **REGULAR AGENDA**

#### **THIRD READING OF ZONING ORDINANCES**

##### **ORDINANCE R-2012-19 (amended) FROM APC**

**R-1 to C-02 w/U & D Comm.**

An Ordinance to Rezone Certain Real Estate in the City of Evansville, State of Indiana, more commonly known as 4000 Washington Ave., Evansville, IN

Petitioner: David W. Johnson

**President Robinson:** Okay, come forward Mr. Bohleber.

**Steven Bohleber:** Good evening members of the City Council. For the record, my name is Steven Bohleber. I am an attorney in this community and I do represent the petitioners, David Johnson and his wife Phyllis Stillwell. I must ask them to stand right now so you can see who they are. When this petition was filed, they were the contract purchasers of the property at 4000 Washington but prior to the Area Plan Commission meeting they did take title to the property and so I think there may be some documents that show another person as petitioner but that individual, who actually was the titled owner at the time this action was filed in August but no longer has any legal or equitable interest in the property.

As you know from the many communications that you've received, my clients are seeking a rezoning classification to allow them to use a portion of their home for a part-time, semi-retirement medical practice. Dr. Johnson is 68 years old. He does not want to fully retire but wants to slow down in the remaining years he has to practice, and this is a practice that he has conducted and a profession he has loved for more than four decades. He relishes the idea of practicing from his home. Not only is it convenient and appealing to him and his wife but also frankly harkens back to a simpler time in America when physicians had home offices rather than the cold, austere clinics that so often dot that medical landscape today and even in high-rise buildings. He also likes the idea of being able to walk from his home/office directly next door to St. Mary's Hospital to see patients. Four thousand Washington offers all that my clients want and need as they move toward full retirement.

Since this section of Washington Avenue and its environs has long supported medical offices due to the bustling, busy and sometimes-noisy St. Mary's medical campus in its midst, my clients look at this site as perfect for their dream home and office.

To say that they were surprised and dismayed by the reception they received by some of their neighbors at the Area Plan Commissioning in October is an understatement. They honestly and truly did not know the depth and number of this opposition until the meeting and they were quite frankly

stunned. An important thing to remember is at the meeting of the Area Plan Commission, this was before the Plan Commission...it's a straight CO-2 zoning with all things that that entails under the ordinance, there was no Use & Development Commitment.

I was retained to represent the petitioners after the Area Plan Commission meeting. Once retained, I immediately identified the spokespersons for the remonstrators and reached out to them, asked them to talk, asked them to let me hear their concerns. Even before I had an opportunity to meet, however, I immediately crafted a very restrictive Use & Development Commitment based upon the perceived issues that it appeared the opposition presented at the Plan Commission meeting because I got the Plan Commission minutes and transcriptions of that meeting and took a look at the objections that were articulated and tried to come up with the most restrictive UDC possible to address those concerns that would still allow my clients to do what they wanted.

Again, I shared that Use & Development Commitment with the representatives of the remonstrators that I identified early on, soon after it was filed with the Area Plan Commission and City Council office. I also, along with an invitation, said please, please, if there are other conditions, if we can tweak this Use & Development Commitment, if we can do something else that will make you more comfortable with this, please come forward. In fact we even continued this meeting one month to give us an opportunity to hopefully work through the differences that my client and the neighbors had and try to come up with a compromise.

Our invitations, and there were several of them, both verbally and telephonically and in writing, generated a single short meeting with two neighbors and two lawyers, one of whom was also a neighbor and that occurred last week. At that meeting there were no suggestions of what else my clients could improve the commitment that they had made in writing. The meeting was cordial. The representatives of remonstrators said, "We are here to listen not make any offers or suggestions", and other than questioning paragraph six in the Use & Development Commitment dealing with the efficacy and possibility of rezoning the property once my client retired, there was nothing else said.

So that brings us here this evening. It's always been my opinion that lack of communication or lack of effective communication, allows rumors to be spread, misperceptions to be cultivated and suspicions to build. That's particularly true in the zoning practice I've been involved in throughout most of my career. So bear with me this evening. I need to tell you a little bit more about all of this than I would in many cases.

I'd like to tell you a little bit about my clients, my clients' practice...I say my clients' practice because Ms. Stillwell, the wife of Dr. Johnson, works in this practice as well. She's a physicians' assistant and has actually been in the medical field since age 18. So I'm going to talk about them a little bit. I going to talk about their practice because there are a lot of misperceptions about what this specialty is and the type of patients it treats. I am also going present some information through myself, and others as well, about the history of this property at 4000 Washington Avenue, the history of development of non-single family residential homes along that portion of Washington Avenue. And we'll present some expert opinions that this will not only not be detrimental to the value of the interior homes off of Washington but that this proposed use by Dr. Johnson and Ms. Stillwell is the best use for this piece of property.

And I'm hopeful and I believe at the end of this day everyone will walk away with at least a much better understanding of my clients, their wishes, why they want to do this, the types of professions

they are involved in and hopefully this Council will feel comfortable voting in the affirmative on this request.

Now as I make a presentation, I do have some documents that I'd like to pass out. I don't want to waste anybody's time with all this but I do have packets of information for each member of Council and one for the Clerk that you can track as I present my information to you.

These several highlights, or these several documents, and I'll just recite them to you very briefly, consist of Dr. Johnsons' Curriculum Vitae, and I don't think I've ever brought one of those to a City Council meeting before; Assessors photos from the Assessors website of the property straight on from Washington as well as some area photos that I think might help you; a conceptual plan with parking prepared by Scheessele and Sons. It also includes something that I prepared and you can blame me for it if you don't like it, that's an analysis of single-family residences versus non-single family residences along an 8/10 of a mile stretch of Washington Avenue in either side of my clients' property. We'll talk about that a little bit later.

I also want to bring to your attention, particularly to a letter from Bartlett & Associates. It's in the packet. It talks about the highest and best use for this site. It talks about the trending along that avenue. It talks about devaluation of property from, you know, one of Indiana's most respected real estate appraisers, Bill Bartlett.

The last thing that I would like to present in any detail, and again someone else is going to present this; Doug Greenfield, a realtor, is going to say a little bit about the history of 4000 Washington from a realtors' perspective, from a market perspective.

I will introduce these folks as we go along and probably end up with a couple of the doctor's patients so you get a better idea of what he does and the type of individuals that he treats. And again, I hate to do this but there were things even said in the Plan Commission meeting that lead us to believe the people do not understand who this man is, who his patients are.

Let's first look at his CV. I'm not going to read the whole thing to you but as you can see in Section II, he has multiple undergraduate and graduate degrees, bachelors and masters in education, degrees in anatomy, human biology, a chiropractic license and a medical license. He has held respected positions in this community and its medical fields. He has been the Medical Director for Rehabilitation Services and that's an important concept because rehabilitation services is what he delivers. He doesn't just dole out pain medication as people think. He has also been the MDA Clinic Director at Deaconess Hospital. He's held many positions. He has memberships in 10 different organizations, professional organizations, in good standing. He's written papers. He's made presentations to others about his profession that spans, again, four decades.

Now, if the doctor wasn't sincere about limiting his practice and going into semi-retirement, he would still be at his office at 350 Columbia, I think it's indicated on...350 W. Columbia, Suite 240, which is on the CV, but sometime ago the doctor made a commitment to the Deaconess Foundation to donate his condominium on Columbia to the Foundation. So he is closing down a full-time practice. He is donating his existing condo. He wants to move into semi-retirement. And I would pass around letters as well confirming that.

As I indicated to you earlier, Phyllis Stillwell, one of the petitioners in this cause who is also is an owner as tenets by the entirety of this property now with her husband David, has been in the

medical field since age 18, done a variety of things and has worked many years for her husband as a physician's assistant. So she is going to be one of the folks living in that house and also assisting patients who come before them.

This practice that he has is in the common vernacular called a pain clinic. That comes with a lot of negative connotations. That, however, is the common word to that is often used to describe what this is. There is no medical specialty like that. What he is, and his specialty, is physical medicine and rehabilitation. If you look on the CV, he is board certified in physical medicine and rehabilitation. It's also called physiatry. It's not some cockamamie idea to make money. It's a recognized, certified medical specialty and it came about, quite frankly as best I can determine, because of some heroic things that America's greatest generation endured in World War II. The term physiatry was coined in 1938, accepted by the American Medical Association as a specialty in 1946 and the field grew drastically and notably during and after World War II to accommodate the large number of patriots who came back from the war grievously injured, missing limbs, and in terrible pain.

Rehabilitation Therapists treat amputees, people with spinal cord injuries, sports injuries, strokes and chronic pain management and is not just giving medication. It's a multi-disciplinary approach involving not just medical doctors but a wide variety of other individuals and therapists. Much of what the doctor does in his practice is therapeutic, it's therapy, it's exercise, and it's not just issuing pain pills. The major concern that this specialty deals with in the medical field is the ability of a person to function optimally within the limitations placed upon them by some disabling impairment or disease for which there is no known cure.

I think some even indicated this was going to be a methadone clinic or something like that. It's not a methadone clinic. It has nothing to do with drug addiction. It has to do with the aches and pains of war heroes, athletes, and just people like me, although thankfully I don't need any pain management at the moment, who are just getting older.

Let's talk about the house. First and foremost, remember this is not my client's office only. If he wanted an office, he wouldn't have moved from Columbia, he wouldn't have given it to Deaconess Foundation. This is first and foremost Dr. Johnson and Ms. Stillwell's home. Many of the medical offices along this section of Washington, in fact, all but a couple of them, can't say that. They are full time businesses, permanent businesses, and established businesses. The Assessors picture that I passed along to you gives you a better idea of what that house looks like from the air and from Washington. It is on a lot that is not quite one acre, .96 acres. It's basically 42,200 square feet; 7927 square feet on multiple floors is finished living space. In addition, according to the Assessor's records, there is an 18,000 square foot, four-car garage.

One of the things the Use & Development did was to assure everyone that this was not going to be a 10,000 square foot medical complex. This is going to be a 10,000 square foot home, of which 2000 square feet will be used on a temporary basis, on a part-time basis, to operate a medical practice. That's what the Use & Development Commitment did among other things.

Let's look at that, and I've sent several copies to the Council, it's on file with (*Inaudible*) so let me look through it, let's talk about what it does. And again, this is not any input from anyone. This is my own creation after consultation with my client. We were willing to tweak it but nobody asked us to, nobody offered it. Instead of the multiple uses that could be there, including fraternity houses and a variety of other things if I recall, we've limited this by Use Commitment to Business and

Professional Office which was the statutory definition that came closest to describe what we were are doing here because it is a professional office, specifically a medical office in this case, and that's allowed by Section 18.125.080A of the Evansville zoning code.

We stipulated, "No more than 2000 square feet of the structure situated on the property to be rezoned shall be used for professional office purposes. The balance shall remain and always be a residence and the façade shall be residential in character and appearance".

Paragraph three limits the signage. A 200 square-foot sign is up there now under a CO-2 classification. Fifty square-feet is probably a lot more they would need and that was put in there simply as an absolute maximum of signage to be displayed on Washington Avenue and a reader board.

There is a circular drive currently servicing this area. The proposal is, even after Site Review if this is approved, that there would be one way in and one way out with no left turns on to Washington Avenue by patients. That's paragraph four.

Paragraph five says an aesthetically appropriate solid privacy fence shall be erected or maintained between the property to be rezoned and adjacent residential property. In other words, they are now happy to improve it.

We also gave you a conceptual site plan of parking. Initially when this petition was presented to the Area Plan Commission the Plan Commission report said you need 40 parking spaces. Well that was assuming that it was going to be an 8,000 or 10,000-foot operation and would require one parking space for every 200 feet. When reduced to 2,000 feet, it only requires 10 spaces plus two for the residential portion. A four-car garage will take care of the residences plus. Ten spaces are all that is needed but the conceptual plan shows 15. That's going to be minimum impact upon the property, on the west side of the property, shielded from view.

But more important than anything else I guess in the Use & Development Commitment is paragraph six and this is about the best guarantee we can possibly give and I think it shows how serious these folks are about what they are going to be doing there. Paragraph six says, "When the property is offered for sale or upon your petitioner's full retirement from the practice of medicine the petitioner shall, *shall*, rezone the property to R-1".

This is a man who understands that he's 68 years old. This is a man who has no children to pass this along to in his field. He wants this for a short time for a semi-retirement practice for him and his wife.

Now they will have employees. That's what requires the CO-2 in large part; maybe up to four, coming and going, and their anticipation is that they will practice no more than three days each week. If they had wanted to do a five or six-day practice, they'd have stayed on Columbia. It's what they want. If they wanted this for an investment for some future sale to another doctor, they certainly wouldn't have agreed to return it to an R-1. So this is about as restrictive as we could get. And again, still willing to tweak it if anybody gave us some tweakable suggestions; we just didn't hear any.

Now, let's take a look at this house in the context of this section of Washington Avenue if we may. Now there's nothing magic about this. I'm not a real estate professional, don't pretend to be.

We've got a couple of those we are going to talk to in a minute. But what I did was I said let's go down one direction from 4000, let's go down another direction from 4000. Let's see what else is there. Hey, I might have missed one somewhere along the line. I walked it, I rode it, I rode it in the car, I made notes on a recorder of what I saw, I checked out records...here's what I found. And the section I selected is basically the intersection of 3200 Washington and then ending at the intersection of 4400 Washington by street address. According to Google maps, which we couldn't get along without, that's an 8/10 of a mile stretch for 4,160 feet. It would take you one minute to drive. That seems a little fast to me but nonetheless that's what they said. And one thing I passed out to you is what I found, what I identified along that stretch in terms of non-single family residential activities. What I have is a list of all those attached to a couple of Google maps. The second Google map, if you look at it, is numbered and the numbers correlate to the cover sheet. It shows you where all these things are located relatively speaking. Again, it's not to scale, I don't pretend it is. There is a star where 4000 Washington is. And what I found on the 8/10 of a mile or 4,160-foot stretch was 23 non-single family residential uses. A couple of banks, a couple of nursing/rehabilitation centers, a couple of big churches and a bunch of medical providers. Just on Washington. I'm not talking about what's on Professional Boulevard or the complex that encompasses St. Mary's Hospital. But I identified 12 of those non-single family residential structures as medical or medical related and some of them have multiple providers in each building. I did go in to see how much further that would go...take us, but I also didn't include anybody on the campus right around the main structures of St. Mary's Hospital. We all know there are all kinds of medical care providers there. But, you know, in addition to 12 out of these 23 medical or medical related uses, there is a lawyer's office, although I think he just moved out; there is Embassy East Apartments. Some of these things have been here forever...the Protestant Home. And then there's the big elephant in the room that seems to really change the dynamic of this section of Washington Avenue, that's the vast campus of St. Mary's Hospital. That's why those other medical care providers, in large part, have located there because I think with the exception of dentists, Dr. Fox at Lombard and Washington, I think everybody else is, all the other medical care providers have popped up there as a result of the hospital. I think Dr. Fox even pre-dates the hospital, which I recall in the mid-50s, I remember as a kid taking a tour when it opened. I remembered that so it must have been in my lifetime.

So you know, my thought is folks, if you just drive down this street, Washington Avenue is no longer a single-family residential street between these points that I've selected. Keep in mind, I could have gone all the way to Green River and skewed these statistics a heck of a lot more because from Hebron to Green River, there is all sorts of stuff, and beyond. And if you go east, excuse me, west on Lombard, you find all sorts of other businesses there as well. I just picked what seemed to be a representative, relatively short-term stretch of this. Now there are beautiful residential neighborhoods off of Washington Avenue and a lot of these folks back here live in one of those beautiful neighborhoods and nobody is denying that but they don't live on Washington Avenue where this house is located and that's the key.

Now what I would like to do at this point is ask two people to come up and talk to you a little bit about 4000 Washington Ave. The first is Mr. William Bartlett from Bartlett & Associates, Inc. He is one of the principals of one of Evansville's more successful real estate appraisal companies. Bill's been doing this he tells me for 46 years. He's been president of the state association. He's highly respected by many governmental entities that rely upon him, including the City of Evansville, for appraisals on a regular basis. He was asked by Doug Greenfield actually, a realtor, to come up and tell you, after analyzing this stretch of Washington Avenue, what it's highest and best use would be, whether or not this was consistent with that highest and best use; that being the



doctor's request, and whether or not, in his professional opinion, this would negatively impact those residences off of Washington. So I'm going to turn it over to Bill and then I'm going to ask, without any further introduction, that Doug Greenfield come up. Doug is a realtor with many years' experience. He's been involved in this property for a long, long time. He's going to tell you some observations about this property, its sales history, or lack thereof, and why this is probably an optimal use from his perspective as well.

So Bill, come on up.

**Bill Bartlett:** Thank you. My name is Bill Bartlett and I'm a real estate appraiser. I've been in business 46 years and I've been in Evansville for 40 of those years. I was state president of the Indiana Association of Realtors in 2003. I was president of the State Appraisal Institute in 1999. I've been local president of the local association of realtors. I've been very active in the business.

I'm familiar with this property. The property was purchased by Bob Woodward, Jr. and Bobby went in and completely remodeled this house. It was considerably smaller when he started. He spent a lot of money on that house. Bobby was a friend of mine. I knew him when he was a small child. Unfortunately, he died in an airplane accident years ago and the family sold the property.

It's a huge home. It's been vacant for two years and in my opinion the highest and best use of this property would be for medical use, you know, converted to medical offices. But that might have an impact on the neighborhood. I think what the doctor is trying to do; limiting the 2000 square feet, what he is proposing in the conditional use permit should not have a negative effect on the neighborhood. It should have no effect whatsoever on adjoining neighbors. There is enough noise, traffic along Washington Avenue that you will not know the difference with that zoned and under the conditional use permit that they proposed.

So I think that is the perfect use for it, accommodating both parties.

**Councilman Friend:** Bill, can I ask you...Bill

**Bill Bartlett:** Sorry John

**Councilman Friend:** On Washington Avenue, when I'm seeing these numbers, is that C-2, is that CO-2 all the same type of zoning? Do you have any ideal?

**Bill Bartlett:** I didn't review that but you can look at the uses there. There are strictly medical offices.

**Councilman Friend:** That'd be CO-2.

**Bill Bartlett:** CO-2. Yes sir.

**Councilman McGinn:** The highest and best use is a term used in condemnation cases to determine the value of real estate, is it not?

**Bill Bartlett:** The highest and best use is what you have to determine in value in any property and the highest and best use can be limited by zoning.

**Councilman McGinn:** It can be limited? It's just an evaluation. I mean, it's not a requirement that highest and best use be considered.

**Bill Bartlett:** Oh, it has to be always. It's always considered. That's one of the elements of value.

**Councilman McGinn:** You're trying to determine that value of property?

**Bill Bartlett:** Yes

**Councilman McGinn:** That's what you're doing, value of property, value of property only.

**Bill Bartlett:** Well highest and best use also. You can do that without putting a value on.

**Councilman McGinn:** Okay, all right. Thank you

**Councilman O'Daniel:** A couple of questions. Obviously, Mr. Woodward was in the commercial real estate business...

**Bill Bartlett:** Yes he was.

**Councilman O'Daniel:**...when he took that project on to make it his personal home, correct?

**Bill Bartlett:** Yes

**Councilman O'Daniel:** He saw it as an opportunity to live somewhere in a residential neighborhood, didn't he when he took that on?

**Bill Bartlett:** I can't tell you his motivation.

**Councilman O'Daniel:** I mean that obviously he did that. He never asked for it to be a commercial development or a CO-2 or his personal office or anything of that nature, correct?

**Bill Bartlett:** That's correct.

**Councilman O'Daniel:** (*Inaudible*) type of homes and type of development, type of homes and residential character of those areas on the north side of Washington compared to the south side of Washington?

**Bill Bartlett:** Yes

**Councilman O'Daniel:** In addition to that, as far as those businesses that Mr. Bohleber has pointed out on the north side of Washington, other than the Ronald McDonald house, which is essentially part of the St. Mary's campus. I understand it's a different entity but it was built to go along with the St. Mary's campus. And Dr. Fox, which probably predates all of this, there really is no other development but for the Five Oaks project that was built specifically for that down at Hebron, correct?

**Bill Bartlett:** Correct

**Councilman O'Daniel:** Other than that, there are no other conversions from residential to commercial development on the north side of the street.

**Bill Bartlett:** That is correct. What is unique about this property though is that it joins the St. Mary's campus.

**Councilman O'Daniel:** I saw some of the *(Inaudible)*. I don't know real estate that well. I kind of grew up with it a little bit but I don't know it. You look at some of the *(Inaudible)* there on York Drive and Johnson Place, would you, and obviously it's sometimes kind of tough to speculate, but if there was a commercial development or a home along Lincoln Avenue say that was adjacent to the Johnson Place area, might that effect the value of the homes within that neighborhood?

**Bill Bartlett:** Johnson Place is unique because it has a fence.

**Councilman O'Daniel:** Well it's a very desirable area.

**Bill Bartlett:** Yes

**Councilman O'Daniel:** But might that hurt the property value if a commercial development were put on...at the corner of, I don't know, Alvord and Lincoln?

**Bill Bartlett:** It depends on the type of commercial development.

**Councilman Lindsey:** I've got a couple of questions for you.

**Bill Bartlett:** Yes sir

**Councilman Lindsey:** You say the Woodward family owned this property during the two-year timeframe that it was up for sale.

**Bill Bartlett:** No, they owned it prior.

**Councilman Lindsey:** Okay, who owned it during...

**Bill Bartlett:** It sold from the Woodward estate to someone else. I'm not familiar with...

**Councilman Lindsey:** Someone else and then they bought it from those people. Okay, I've got a question for you. If this Use & Development was to effect the sale and it took two years to sell, why didn't you attempt to rezone it during the...why didn't they attempt to rezone it during this process, the selling process that made it more sellable or made it a more valuable property?

**Bill Bartlett:** I can't answer that question for you.

**Councilman Lindsey:** Okay

**Councilman O'Daniel:** In fact, wasn't it owned by a radiologist who practiced...Dr. Sellers?

**Councilman Lindsey:** Who would know this? Who would have this information?

*(Inaudible language – Unidentified speakers)*

**Councilman Lindsey:** Because I mean that's...you know that's important information. I mean if this was a point to influence the sale, why wasn't it...it was on the market for two years, why didn't they try to go ahead and rezone it before and then attempt to sell it as what you think, what you say is the best use of development of the property? That's the only question I have.

**Bill Bartlett:** I can't answer that question.

**Councilman Lindsey:** Okay, all right, thank you.

**Councilwoman Mosby:** Mr. Bartlett?

**Bill Bartlett:** Yes

**Councilwoman Mosby:** Missy, hi. Quick question. So what you are saying basically is this type of Use & Development that they are proposing should not have any negative impact on the value of the properties around there.

**Bill Bartlett:** That is exactly right.

**Councilwoman Mosby:** Okay, thank you.

**Bill Bartlett:** Thank you.

**Steven Bohleber:** Even though it might be off-mike, I think the next gentleman could answer questions about the history of the property.

**Doug Greenfield:** Good evening Council members. My name is Doug Greenfield. I am a real estate broker associate with ERA First Advantage, and I'm also the agent that worked with the Johnsons to purchase this property and it was quite a journey.

This is an interesting moment for me because I feel like I know some of you from my experience here in Evansville. I returned to Evansville in 2004 after being gone for almost 40 years. Prior to that, I lived in southern California in Los Angeles, Ventura county area where I also was involved in the real estate community as well from 1999 up until current day.

I think it's interesting as I've gone through the process of this home purchase with the Johnsons, and obviously, I've overheard some of the comments that have come our way about the process of the rezone and the value of the property, etc. etc. I felt it was appropriate to bring an appraiser into the picture, and step back and let somebody who more appropriately can discuss highest and best use with you; somebody that has a reputation for that and certainly understands the valuation process of highest and best use. So what I wanted to do as a real estate broker associate is to provide you with a snapshot that would kind of help all of us understand what has really transpired in the sense that a very courageous builder/developer purchased that property, probably in the late 90s. Took a home that was built in 1949 and a time when things probably looked a little different around Washington Avenue around the area that is currently the campus for St. Mary's, and while St. Mary's has changed, Washington Avenue has certainly changed. I'm certain we are all aware this home has changed and taken on a new life as well. When it went from its original square

footage of slightly over 2000 square feet and was brought to the size of a small prep-school, with a garage that would probably handle a couple of tour buses and an overhead space that would make the room of a small bowling alley, and that doesn't include the basement. I haven't heard anybody talk about that yet. It has its own fireplace. It's a mansion by any stretch of (*Inaudible*). It really is, it's a beautiful, beautiful home.

When you, as a real estate agent, you know, step back and get involved at looking at a property to find where it's going to fit, where's that sweet spot if you will, to find the right price for that home in today's market. And there are all kinds of things that entered into the picture. Things that have been going on since June of 2006 when we went through that...I used to call in another life, market correction. What we are seeing here doesn't really fall under that purview of market correction. The house itself would probably stand up to any of the homes in that area we call Johnson Place. When I looked within a one to two mile radius to try to get some type of evaluation, as any good agent would do, I wanted to look at what's been out there in similar size that's been sold, and you don't see that being done every year in the Evansville community. Sometimes you have to go back two, three, four years to get an experience to see what these homes that have this kind of square footage are going to sell for. When I provided this document to you that gave you the sales history when it was originally marketed, these weren't my numbers. These were real estate professionals that have been in this community for decades that all got involved from the very beginning when it first came on the market.

When compared with other homes of similar size, similar value in the community, it started originally at \$1,200,000 when it was first put on the market. It originally sold to Dr. Sellers in February of 02 at \$800,000. Dr. Sellers lived in it with his family up until they put it on the market two years ago from September. During that time it started at a price point, I'm trying to reflect on my numbers here, of \$824,000 and slowly just migrated down to a number that I was brought on board to try to find. When I say brought on board, I took it on as a challenge. I realized that they had not had an offer, and think about it as a seller, not to make a pun on Dr. Sellers, but as the seller, the homeowner, they had a home that they prided. They had a lot of pride in it and they kept it up, they tried to keep it as nice as they could. They kept the grass mowed and the physical appearance. So when I came into look as a real estate professional, I wanted to find out, you know, why are we not getting at least an offer on this home. I mean anybody that's a beginner can tell you, "Well if the price is right, the home is going to sell". There is always a price. But I wanted to find out what the community who were interested parties had to say about this home because that is the "real" of this whole process in real estate. And so I had some special signage made and I started coming at 6:45 in the morning. Some of the neighbors probably remember my walk across the street and my visits to talk to them as I saw them outdoors. I started doing open houses on Tuesdays and Wednesdays and Thursdays and Fridays and the whole impetus behind that was to encourage people to stop in, talk to me. Let's find out what's going on here.

In the process of spending so much time in that property I found that if I went down that bank of windows...those of you who have driven by, you see the shutters...the natural instinct as a real estate professional is to open all the windows, bring in all the light. If I opened all the blinds in the master bedroom, I was staring 20 feet away at cars parking all over the parking lot so I couldn't really market very well leaving those blinds open. And if you're standing in the kitchen or in the study or in the dining room, it doesn't...you get a constant flicker from the cars going by, from the windshields, from the sun hitting the glass on the vehicles and it's distracting. And I noticed when people would come in, I'd try to have a conversation...it's easier to walk over and just tilt everything up all the way down the side of the house.

As I got people, you know, to sit and talk or stand and talk to me as they were exiting, I'd say, "Talk to me. Tell me what you see. What would it take to make this happen for your?" They loved the beautiful study. They were just enamored with the kitchen, with the fireplace. I could go on and on and on. But the reality was two particular things: high traffic and the noise from the twin heliports.

In August of 1982, things really changed in that community. In my previous professional life, I was a retired public safety administrator for Collier County Florida, Naples. I had the pleasure of working with Naples Community Hospital in a very similar type setting and putting in their first heliport and I can tell you, that public (*Inaudible*) and the effort to put that in was quite a battle but it needed to be done. Since that time, that's really had an impact for a potential buyer, which I heard from a previous agent, they spent an evening or two there in the front of that house, trying to make a decision whether to make that purchase and walked away from it.

So in the end it became a proximity issue for that particular house. As we learned from the survey, a portion of the privacy fence actually sits on St. Mary's Hospital. I did hear a comment that the other homes don't have all of the same issues as this home facing Washington. I promise you, there are some people here that do face Washington, that sit on Washington, and I respect their comments and their feelings about that statement because it's right on Washington.

But we finally brought the home down to \$525,000 to get it sold and while that sounds like a fortune to all those who might be hearing this broadcast, I heard it on MSN two days ago, they were having specials for homes around the United States for less than \$500,000. For the rest of the country, most of the country, that's a cheap house, but for here, as most of our community knows, that's a lot of money. But still for a home that size, if that was in Johnson Place, we'd be looking at anywhere from \$800,000 to \$1,000,000 and yet from its original marketed value, we saw it shrink to about 46% of what it would cost to replace that home. So would it be attractive for someone that is ready to pull the trigger that is looking for an opportunity for the right home, the right place, the right setting? Yes. Was I advertising or did I approach someone to commercialize it for Dr. Sellers? I would say no. They looked at it as a home; they would leave that for someone else to do. But it doesn't take it out of the picture. It didn't take it out of the equation. As a commercial agent as well as a residential agent, if I walk into Area Planning today and I ask them to show me what you have that's set up to work for this kind of a setting for medical, they don't have anything. Everything is so broad based, to have something like this in a smaller setting doesn't exist. It puts us back in this kind of scenario. Something I certainly think we should look at.

I provided each one of you with an aerial photo to show you this home sitting right against the hospital entrance with those twin heliports and I'm sure the area residents are going to appreciate, as I do...and as to the former resident that lived...I believe his name was Greg Hoffman that lived just on the other side of that fence. I just spoke with him today and he said the helicopter noise is a real issue. And it was a real issue for the potential buyers.

So I talked a little bit about this home, how long it's been on the market. We talked a little bit about highest and best use. All of these are factors of real estate that can add value to a decision. It had a value to this particular family because they had a need. We thought in the early stages that it was a valid need. I know they went all out trying to get letters to the neighborhood trying to get information. And, you know, had we had the full spectrum of time to go all the way through the process prior to closing, we would have done that. But because the price had gotten to the point that

it had reached, we had others that were also...there is no reason to hide it...also had interest in purchasing the home because we had reached well below a foreclosure level in value: \$69.00 a square foot.

**President Robinson:** Thank you. Are there any other questions of Mr. Greenfield?

**Doug Greenfield:** Yes

**Councilman McGinn:** Was there any other offers on this property?

**Doug Greenfield:** There was in the very end after our offer was accepted. We had a first right of refusal and we in the pending process and already filed a petition to have the home rezoned for this particular use. So an offer did come in, it was accepted so we had to remove our contingency.

**Councilman McGinn:** Was that offer to be used to use this property as a residential unit?

**Doug Greenfield:** I didn't see the specifics. It was a purchase agreement for a residential property and my assumption is yes.

**Councilman McGinn:** That one had no restrictions? When you say restrictions, I mean, the first offer that came on this from Dr. Johnson was subject to getting it rezoned.

**Doug Greenfield:** That is correct.

**Councilman McGinn:** And then while that was still pending an offer came in to just buy it outright without any particular restrictions.

**Doug Greenfield:** I would have to say I do not know the exact answer because I did not see the entire purchase agreement, I only saw page one.

**Councilman McGinn:** Do you know what the offer to purchase was on that one that came while the sale was pending.

**Doug Greenfield:** It was \$4,000 over our price.

**Councilman McGinn:** Okay. Do you know has that person purchased a home, do you know?

**Doug Greenfield:** I do not know that.

**Councilman McGinn:** Okay, thanks.

**President Robinson:** Okay, thank you. Any other questions from any other Council members? Mr. Bohleber, please wrap this up.

**Steven Bohleber:** I'm going to try. I understand it's quite long but...I do want to pass along something to you if I may. Mr. Greenfield pointed out what you see when you look around the area. My clients took some photographs, and I'm going to pass these around to look at while we talk about other things, of what they see when they look out their windows or when they are on the

property. What they see is St. Mary's Hospital, St. Mary's Emergency Room, the church across the street, and Washington Avenue. I'm going to just pass those around for your examination.

All of this underscores what I believe is apparent. This property is no longer, because of its size and price, attractive to single-family residents. What you should have picked up on is apparently Dr. Sellers moved out of the house for two years before it was sold. Don't know why. It was empty. Couldn't sell it for two years as the price plummeted. And if you look at Mr. Bartlett's report, you will see in addition to his conclusion, that its highest and best use is a medical related activity. You will also see that the property suffers from external obsolescence based on surrounding, existing uses, Washington Avenue traffic noise and from St. Mary's Hospital, especially the heliport. It has locational obsolescence as a residence, is what that says, and that's why it didn't sell, that's why no one wanted it for all this time, that's why it became an ideal parcel of property for Dr. Johnson and Ms. Stillwell to move into semi-retirement.

The last thing that I want to talk a little bit about is my clients' patients. Just has many citizens who are neighbors of this property have joined forces in opposition of this rezoning, others citizens of the community, and the people that Dr. Johnson treats and Ms. Stillwell treats, are as passionately supportive of this rezoning as those who are opposed to it. They don't want their doctor just to quit. He is going into semi-retirement but they want him to continue to help them in his semi-retirement years. So, and I know you probably received these things, just like you received letters from neighbors, just like you received petitions from neighbors, Dr. Johnsons' patients signed a petition, 144 of them, and 98 letters were written. I think most of them probably inundated you guys in the last few days. Just for the record I'd like to present to the Clerk copies of the letters that were sent out in favor of this rezoning and a copy of the petition.

More importantly some of Dr. Johnson's and Ms. Stillwell's' patients are here tonight. I ask if you'd stand or otherwise signify your presence. I you can stand that'd be great. These are citizens of this community that want this use because they want their doctor to continue, even in semi-retirement, to be able to assist them. And last, I'd like a couple of them very briefly to talk to you and one I want to call particularly is GERALYNN CAPLAN, who is sitting in the front row.

**GERALYNN CAPLAN:** Hello. I'm a little short; he's not treating me for that. I'm GERALYNN CAPLAN. I'm an associate professor at Owensville Community Technical College in biology, in anatomy and physiology particularly. And I lost my leg 40 years ago. I have been in pain, high levels of pain, for 40 years. Stop and think about that. That's 40 years. The only one that's ever come close to come...anything, anything, has been Dr. Johnson. Add to the pain from the amputation having these (*indicating crutches*). They've added. His colleagues have helped me through with those muscle spasms and all of that.

There were stories coming out of the last meeting that left me livid. Basically it was referring to his patients has being drug addicts or going there for drugs. I'm not a drug addict. I take medication. Does he treat me for medication? No, he doesn't. He treats me for pain. I listened here in the beginning of your meeting where you were talking about back injuries and things like that and while some of those get better over time, that's what he treats. It would be nice if, you know, we lived in a world without pain. I would kind of become...okay, I can't envision it. But we don't. We all, at some point, experience chronic pain and it is not a weakness to need help but I swear it is almost impossible to find it or to find somebody that will treat you and not discount you. And to be discounted because I'm in pain...and I found a man that was willing to say, "Well, okay, let's try this" or, "Okay, that doesn't work, let's try this", "How about this?" He's amazing. It's



phenomenal. And a group of people just stood up to show you that this is needed. We are not drug addicts! That's horrifying. It's horrifying to me. The students I treat, I teach are going into health professions. I give them entire lectures saying that people should not feel guilty for pain. When I mentioned to my class that I was going here, one of my students said, "Well yeah I won't get treated for pain because I'm afraid of becoming an addict". No! That's that attitude that lives. Oh my God. That's inexcusable.

That...is a possibility 2000 square feet...that is going to bring down property values? Come on. No. What it is is ignorance. It's ignorance of the fact that people who finally say, "I can't take anymore!" go someplace. Well you have to be an addict. No. Found somebody that will take care of us that will help us. I have been going to him for over 20 years. I've talked to a lot of people in his waiting room and all of them are just as devoted; that's why they all stood up here. Yeah, if he retires, there is nobody else in town because I've talked to all of them. I have contacted all the other pain places and I've gotten suggestions, in this city, sever your spinal cord, in this city. When I had two young children at home..."Well we could sever your spinal cord. That will make the pain go away". Yeah, I'm sure it would. Others...we'll implant this, we'll implant that or you know, just go home, we can't do that much about it.

He does it. Yes, he takes care of amputees. There's nobody else around here that will. We've got people coming out...we've got boys, boys my sons' age coming home that need his help. He takes care of people with back pain. Well let's face it. How many of us haven't had that? You don't find...the doctors aren't there for this and you've got to respect that. And this, like I said, when he told me that that's what was being said, I was like, okay, how fast can I talk? How fast can I talk? I'm going to talk now.

He's a great man. I don't say that...I don't come up to support, you know...in front of...for anything else. Having him close his office frightens me to my core. It's not something that should be considered lightly. He's across the...he's in the entranceway to St. Mary's. What a bad place for a doctor's office. With access to his patients that are at St. Mary's. That's kind of nice because I've wound up there in their emergency room once or twice and it would have nice to finally say when they're saying, "Well we don't know if your screaming is (*Inaudible*) for some kind of pain medication, that I could have, you know, sent my husband, "Pound on his door. Make him come over here". Because I have been at St. Mary's emergency room like that where they suggested three years ago, "Why don't you try mirror therapy?" That's when you look and pretend the leg is there and it makes the pain go away. Because you know where that works? On *House*. Yeah.

**President Robinson:** Okay, thank you.

**Geralynn Caplan:** Thank you.

**President Robinson:** Let's try to limit our comments to three minutes please.

**Steven Bohleber:** Okay; I appreciate that. There are many other people who would like to speak but we will not ask them to. Again, everybody who is a patient, stand up one more time and I'll yield the floor to the remonstrators then. Thank you.

**Councilman O'Daniel:** Mr. Bohleber, just one question.

**Steven Bohleber:** Questions? I'm sorry. Any questions of any of us, I apologize. I'm trying to speed on but we are hearing question.

**Councilman O'Daniel:** I appreciate the comments of the lady here. Is it my understanding that if he doesn't get this rezoning, he is retiring? Is that sort of what I hear?

**Steven Bohleber:** That's one possibility because he's already given his office to the Deaconess Foundation. I guess he could try to renege on that. That wouldn't put him in very good standing...

**Councilman O'Daniel:** I read that letter. It sort of said kind of keep going...see what we need to do to...

**Steven Bohleber:** There is no deadline on it.

**Councilman O'Daniel:** Okay, so it's not...that's not set in stone.

**Steven Bohleber:** That's correct, isn't it? There's no deadline?

**President Robinson:** Maybe Dr. Johnson can come forward...

**Steven Bohleber:** Come up David.

**President Robinson:**...and we can ask him those questions because in reading this letter, I think, I just...like a dialog has been started but it's not like your actually going to give it to them then.

**Dr. David Johnson:** I'm Dr. David Johnson. With Deaconess Hospital, we had...they owned several condos in our building so they came to our building meeting. We had a building meeting approximately two weeks ago and they asked me pointblank, "Are you going to donate your condo?" I said, "Well I paid \$2,000 to have it appraised. Yes, I plan on donating it". And they asked when. I said it might be a month, it might be two months but hopefully not more than three months. And after a while, Deaconess won't want it. They are tearing down the adjacent white building. They need the space to move those offices into the brown building next door to it and so they are getting antsy. If I lose them then I'm stuck with that building more or less forever because years ago I did try selling that condo and I didn't even have an offer. So Deaconess taking it, letting me donate it to them is good but they wouldn't even let me donate a few years ago.

**Councilman O'Daniel:** The donation is actually a tax benefit to you, isn't it because you say it's got no value to sell at this point?

**Dr. David Johnson:** But yet I'm donating it to the Foundation and yes hopefully they'll give me enough to write off taxes. It's a certain percentage.

**Councilman O'Daniel:** Is that why you did the appraisal then?

**Dr. David Johnson:** Yes

**Councilman O'Daniel:** And would it be fair to say that if you don't get this rezoning, are you going to retire?

**Dr. David Johnson:** It's...well with Obamacare there, there are a lot of factors that are going on. I am 68 years old. Yes, there is a very good chance that I will retire because I...really I don't want to get stuck with that condo where we have a common area fee. Even though it's paid for, we have a common area fee of \$1,250 a month plus there're are yearly, sometimes quarterly, assessments to repair the building of several thousand dollars...to repair the elevator I never use because I'm on the first floor...the roof, the plumbing...it's an old building, it's in constant disrepair. The white building is a little bit older and they are tearing it down.

**Councilman O'Daniel:** So you are making a financial decision based upon changes in healthcare as well as the availability of donating that.

**Dr. David Johnson:** Yes.

**Steven Bohleber:** *(Inaudible)*

**Dr. David Johnson:** No, no. I quit that hard work many years ago.

**President Robinson:** You said...Dr. Johnson, you said you'll probably work three days per week.

**Dr. David Johnson:** That's all I work now. Monday, Wednesday and Friday.

**President Robinson:** Three days per week. And what will the hours of operation be if you're...

**Dr. David Johnson:** I get in the office sometimes at 7:00 but I start at around 8:00 seeing patients and generally at 2:00 we are out of there. My malpractice insurance is for working part-time too and I put down on the form that I work under 20 hours a week.

**Councilman O'Daniel:** One additional thing. With regard to these 2000 square feet that you propose turning into an office, will you have to make that ADA compliant then *(Inaudible)* house?

**Dr. David Johnson:** We are putting in an elevator. The Scheesseles' here that are contractors, they will put in an elevator and the appropriate ramps and they handle that.

It was mentioned about the sign, if I could comment on that. He asked me how big we should have it and I'm not a sign person. Whatever the Scheesseles, our contractor, working with the sign people would say would be appropriate, if it's just a 2' x 2', then that's what we'll go by. But I didn't want to be limited. I wanted to be able to have their opinion and their sign people put it in.

That house, it is amazing. It has a bonus room that one of them called a bowling alley. It's huge and that is what we plan on dividing up into treatment rooms.

**Councilman O'Daniel:** As far as the 2000 square feet though, once you make that ADA compliant and you change that into a commercial type venture, once it goes commercial, even if you go back to

R-1 when you fully retire, doesn't that really change the character of the home going forward.

**Dr. David Johnson:** The character of the home on the exterior will not change at all.

**Councilman O'Daniel:** Well the interior then.

**Dr. David Johnson:** The interior, instead of five bedrooms...

**Councilman O'Daniel:** It will cause *(Inaudible)*

**Dr. David Johnson:**...they'll have nine or ten.

*(Laughter)*

**President Robinson:** Another question. I've been inside that house. Are you going to see patients on all levels or...

**Dr. David Johnson:** No, just the second floor and it's about from the one dormer window over to the garage. The other upper level I may use for books and reading X-Rays and my little office and Dr. Williams and Dr. James, their little office and then the entire lower level, except for an entrance to come into the elevator, will be our home.

**President Robinson:** So you are going to have Dr. Williams in there also with you?

**Dr. David Johnson:** He's been with me for 15 years.

**Councilman O'Daniel:** *(Inaudible)*

**President Robinson:** Wait. When you come inside the house then where the master bedroom and all that, the living quarters on the first floor is going to remain there?

**Dr. David Johnson:** Yes. In fact I just bought a really nice desk for the den area. The desk is called the Resolute Desk.

**President Robinson:** Where are you putting an elevator?

**Dr. David Johnson:** Well if you had the aerial view I could show you. If you...there is a little entrance right here. That's a mudroom. If you walk in there, there is a stairway *(Inaudible)*. A lot of my people can't climb stairs so the elevator will be right behind, outside the house. It's right there. Right there will be a small elevator that goes up to the second floor. That's our plans.

**President Robinson:** So is Dr. Williams just going to work 20 hours a week also?

**Dr. David Johnson:** Oh, he doesn't work that much.

**Steven Bohleber:** *(Inaudible)*

**Dr. David Johnson:** He is my physician assistant as so is Dr. James. Dr. Williams works three days...maximum 12 hours a week.

**Steven Bohleber:** And those are employees?

**Dr. David Johnson:** Yes, yes. And then Dr. James...

**President Robinson:** So does that include...he said he was going to have four employees so those doctors, are they part of those four employees?

**Dr. David Johnson:** Yes.

**Councilman McGinn:** Question. How many patients are seen in your three-day practice now on a weekly basis?

**Dr. David Johnson:** Probably 60.

**Councilman McGinn:** And is that you alone or is that the total for Williams, James and Johnson, all three of you?

**Councilman McGinn:** So that's 60 a day...or I'm sorry, 60 in a three-day workweek.

**Dr. David Johnson:** They see...one sees 15 to 20 and the other maybe sees five to ten. So whatever that is.

**Councilman McGinn:** Fifteen to 20, five to ten, so that's a 20 to 30 and that's a week total?

**Dr. David Johnson:** Yes for the three days. They see that many in a day and then you've got to multiply in on Monday, Wednesday and Friday so the hours we work.

**President Robinson:** Be 180 a *(Inaudible)*

**Dr. David Johnson:** And we've done that for many years. It's not something new we are creating for this property.

**Councilman McGinn:** Well 15 to 20 and five to ten, so that's 30 a day times three. That's...

**Dr. David Johnson:** Ninety

**Councilman McGinn:** That's 90 patients. And you don't see any patients in addition to what Dr. Williams...

**Dr. David Johnson:** I used to but I...if I do, at most if I do its one patient. I might do an I.M.E. for an attorney on a Wednesday. I see one patient and I dedicate about two, two and half hours to that one patient but these 30 a day that we see, if they need to see me, I'm there for them. And any patient that sees Dr. James or Dr. Williams, all they have to do is say, "I need to talk to Dr. Johnson", which some days they do all day long, and then I see them in certain rooms also.

**Councilman McGinn:** Okay, what is there retirement plans? Do you know?

**Dr. David Johnson:** Drs. Williams and James?

**Councilman McGinn:** Uh-huh.

**Dr. David Johnson:** Williams says he's going to have to work until he drops over, somewhere.

**Councilman McGinn:** Okay, well, just asking. I mean you're talking about practicing a few more years and reverting this back to a residence but you are still going to have Dr. James and Dr. Williams working out of that building (*Inaudible*).

**Dr. David Johnson:** No, they will...Dr. Williams recently worked for another group of doctors. He just left there probably five, six months ago but he used to work in the afternoons at Washington Square in a family practice. He did that for several years. He'd come in and see me the morning then he'd go over there. But he's also turned 65 and approaching 66 and so when he left Washington Square he just, I think, you know what he does is his business, if he wants to work somewhere else that's fine.

Dr. James actually told me yesterday, he said, "I think I'll quit next December." I said...he has a few little health issues and I don't know if he'll make it through this December. But, yeah...and Dr. James, he's an old guy like me also so I...I shouldn't discuss Dr. Williams health issues but he's had a few also. He looks in pretty good shape.

**Councilman O'Daniel:** (*Inaudible*)

**Dr. David Johnson:** Yes, but if they want to go somewhere else that's fine.

**Steven Bohleber:** Any questions of anybody we presented?

**President Robinson:** (*Inaudible*)

**Tom Bodkin:** Tom Bodkin, 20 N.W. Fourth Street, counsel for Mr. and Mrs. Michael Klueh who live literally across the street from this parcel, right on the corner of Stockwell and Washington Avenue.

I've had the privilege of appearing before this Council a lot of times on zoning issues on both sides. This one is a little unique though, I have to admit. I don't think I've ever had anyone petition to rezone property that did really care about the neighbors but only cared about what they wanted for the period of time they wanted it. That sounds very much like what we have.

You have a code that you adopted; the zoning code in this community and a comprehensive plan. That comprehensive plan was prepared by your Planning Commission after extensive views, thoughts, and discussions, public hearings. You had hearings about it and you adopted it. That comprehensive plan, which you adopted in 2004, still is in effect today. Many of the issues that I suggest to you, you heard debated by Mr. Bartlett and the realtor are the very issues that you would listen to in a kind of cosmic sense in drafting the plan but not specifically to rezone a small parcel. And those things, I submit to you, you didn't hear then and you've not had anybody come to you so far and ask you to change your plan and the plan is significant because those of us who advise people who are buying property look at your comprehensive plan when they tell us they want to do something that the property is not zoned for. And we look at your plan to see what you have told us that parcel should be used for and ladies and gentlemen, that piece of real estate, in your comprehensive plan, is to be used as a residence. In fact, I don't have the clicker or the ability, but if you look at one of the maps that has been up here several times of the subdivisions in that area, all of the property, starting at the entrance to St. Mary's ER room, which is just to the left of this building, all the way down for two full subdivisions widths until you get to some offices at the far...I guess that's the east end, is all residential use. And, there you go; all of the yellow is

residence, okay. St. Mary's is sitting there and under your comprehensive plan, by the way, it's carved out. It's called a non-for-profit organization and it was recognized that it would stay where it's at and that's in your comprehensive plan. But your plan calls for the rest of that property to remain residential. You thought through these issues when you said that and I submit to you those issues have not changed.

Now my clients live right across the street and I will tell you they don't agree with Bill Bartlett and that's fine. They firmly, firmly believe that if you turn this property into commercial, you will degrade the property values in the neighborhood. One point too, this Use & Development Commitment Mr. Bohleber drafted, the house right next to the house at issue here is, all I recall the Assessors records, about 2,000 square feet. Now if this one should be CO-2 for 2,000 square-foot use, then how do you tell the guy next door he can't do that with his? And how about the one next to him and on down the line, all along Washington Avenue on the north side, which is all residential. All residential. You, in your comprehensive plan and your zoning code, told us that the very first thing that the legislative body and Plan Commission pay reasonable regard to in rezoning petitions is, "Does the amendment conform to the comprehensive plan?" This amendment requested does not pure and simply conform to your comprehensive plan.

This subdivision, ladies and gentlemen, at least the first 12 lots that run right along Washington Avenue, was platted in 1946. It's remained residential. It's remained residential for 55 years, if I'm calculating correctly, and there is no reason to change that today.

Traffic along Washington Avenue is what it is but I submit to you, if we are going to run...Mr. McGinn was trying to calculate the number of patients in a day, in a week, in a month, it's somewhere between 30 and 60 and I'm not sure...oh, and by the way, the Use & Development Commitment doesn't restrict the number of people that will come to the building. It just says we won't use more than 2,000 square feet so I can put as many people in that in a days' time as I want and not be in violation of my covenant. But ladies and gentlemen, you are going to have to get these people, however many there are in that day, in and out of that place. I've measured it myself. From the west end of the entry to this parcel to the entry to St. Mary's ER room, the drive, is 33 feet. Thirty-three feet on the west end. On the east end, it's a little over a hundred to get to the other side. I'm not sure exactly how you are going to get cars in and out of this parcel without obstructing traffic on Washington Avenue and creating a problem for people who pull into the St. Mary's ER room drive. I can tell you that has been a problem. St. Mary's has one employee who is already in a lawsuit because she had a collision trying to pull out of the St. Mary's ER room entrance just not long ago. I think there were statistics about accidents at that intersection that were presented the Plan Commission and you'll probably hear some more about them.

Those are the relevant considerations as you look at rezoning petitions as well. What happens to the people who still live around there and try to get in and out of their houses and in and out of their properties?

You know, back in the 90s, and I've had the privilege of being here for about that...longer than that actually, but in the 90s there was a great hubbub that went on in this City about the creation of what we now call Professional Boulevard It is the road that connects Washington Ave. to Covert Avenue. It goes all the way through and it was created and is recognized in your comprehensive plan as being created for medical office buildings, and that's what's there. And by the way, there are empty buildings, there are empty lots, there are places that people can go who need to get into the practice if that's what they want to do. But you looked at this issue about where we ought to have people

who need to be proximate to St. Mary's and you agreed that Bob Woodward will build Professional Boulevard and it's there today. There are a number of doctor's offices on it and that's where you said they should go and by golly that's where they're going.

You are going to hear from another lawyer in a minute but more importantly, he's a neighbor. Oh, by the way, the helicopter stuff, the heliport has been there for decades. In fact the second heliport was put in to reduce any noise issues and when Mr. Veazey speaks, he's going to talk to you because he lives right behind it. The heliport is just simply there, it's been there for a long time and that was anticipated as a part of providing care at that location.

By the way, 2,000 square feet as set forth in the Use & Development Commitment, inside St. Mary's Medical Center, there is a unit called Same Day Surgery. That's where people come, they go to surgery, they come back, if they are not admitted, they go home. Well there are about 1,800 square feet in the entire Same Day Surgery unit at St. Mary's Medical Center and it handles a large number of people per day. Two thousand square feet, ladies and gentlemen, is a lot of space. That's a lot of space.

I don't care how big the house is, 2,000 square feet committed to people to come in and be treated is a lot of space. And by the way, I think I understood there is going to be two or three healthcare providers, physician-type people, but how many...who is going to do the billing? Where is that coming from? Do we have a radiography machine there to do epidurals? If so, where is the Rad Tech? Where are they going to park? How many of them will be there in a given days' time? It is not just a medical office for one doctor.

You know, Dr. Johnson is not Marcus Welby who is going to practice out of his house. What he is proposing here basically is to take advantage of Deaconess, who is going to give him a nice charitable deduction if he gives them the condo. Then he is going to move to Washington Avenue, if you let him, and destroy the property value, the peace and quiet, and the comfort of the people who live in that community. By the way, while he's got some patients here tonight, you are going to get in a minute, I think some of you, all of you, maybe, got a number of letters and I think there were six or seven stock letters. Some of you got them without postage on them and had to pay the post office to get the letter that encouraged you to let this man rezone this land. I found that particularly interesting but I have to tell you, we plotted that. We plotted where all those letters came from and I'll guarantee you very few of them came out of the First Ward, Mr. McGinn, very few, and I think you're going to get that here in a few minutes.

I'm going to shut up in a minute because I don't think this should be that hard. The Use & Development Commitment, however, is one thing I've got to comment on because I think we need to focus on a couple of items. Steve Bohleber is a really good lawyer. I've known Steven a long...he's almost a better photographer than a lawyer but a really good lawyer too. He crafts documents beautifully but this one, ladies and gentlemen, that he relies on in Paragraph Six, absolutely destroys all the arguments about why this property couldn't sell, it should be rezoned and why it's just invaluable to turn it into commercial. What did he say in Paragraph Six? "When the property is offered for sale or upon the petitioner's full retirement (and I will submit to you, I don't know what that means) from the practice of medicine, the petitioner shall petition to rezone the property to R-1". If it shouldn't be R-1 today and it should be CO-2 or whatever, why would it go back to R-1 just because he doesn't own it anymore? Land use is land use. It's not about what Dr. Johnson wants it's about what is proper land use for this parcel and this community.



Two thousand square feet is a lot, a lot of square footage and I'm going to close by quoting something here I heard just a little bit ago. It's going to surprise you because I agree with it. The gentleman from...the realtor that stood up just a moment ago made a statement that I think is exactly correct. That's the gentleman that said, "Oh, guess what. We had an offer of \$4,000 more than Johnson's offer (if I understood him correctly) for somebody who wants to use it as a residence". He said, "This is a beautiful, beautiful home". Ladies and gentlemen, my clients agree with that. Please let it stay that way; turn this zoning down. This is not good land use at all.

**Lee Veasey:** Ladies and gentlemen of this Honorable Council, my name is Lee Veasey, my address is 915 Main Street and that's Suite 502. Also, I am a resident of Hebron Meadows Subdivision. My address there is 831 S. Colony Road and that's at 47714.

I previously appeared before some of you at the Area Plan Commission so I apologize for the repetition; however, to make things a bit more concise I'd like to ask you to please incorporate my comments from that meeting, here today for your records.

Now Mr. Bodkin touched on a number of the overarching general concerns, however, there is one specific issue that I really want to address because it wasn't mentioned. If you'll look directly at where you have the entrance to Colony Road on the north side of Washington Avenue and just to the east of St. Mary's, you'll see what appears to be a perfect rectangular plat. To then rezone a portion of that plat is to engage in the direct-spot zoning. The problem with that is, worst case scenario, that spot zoning; best case scenario is precisely the problem we are going to see and many have described as a creep zone, one after the other and down the line.

Now I have prepared for you today a very general document but it has a few things in there that I'll call your attention to in a moment. If you would please (*Inaudible*). While you are passing that around, I do also want to talk about the Use & Development Commitments submitted to your body. Only two real changes caught my eye from the Area Plan Commission, the first of which limited the practice space to 2,000 square feet. Well previously at the Area Plan Commission I heard 1,000 square feet and now today I hear 2,000 square feet and then I hear there is going to be some office space perhaps elsewhere and maybe a radiologic technologist's office and beyond that. It seems to keep going well beyond the 2,000 square...well it was 1,000...now 2,000 progressively. Where does it go from there? Now obviously here also, there is going to be a need for a variance for parking. That has not yet been done.

Now the second issue: they promised to petition for rezoning to residential use. I hear Mr. Bohleber quite clearly and he said, "The petitioners *shall* rezone". I don't believe the petitioners have the authority to rezone the property. They can petition to rezone, and indeed, that's what it says. It says they shall petition to rezone. I'd like to second Mr. Bodkin's comments to that end. To petition to rezone...if it's not the proper use at this time and not later, what makes it so today?

And then I think there is that adage that we all sort of understand very clearly that once a property goes commercial in usage, it will remain so.

The neighbors have some very direct concerns dealing with the use as medical office space there. Again, pertaining to the real estate values, I won't belabor that point, however, there is an additional point that was discovered today, excuse me, previously to today, if you'll look at the second page. Protective Covenants - Hebron Meadows Subdivision Those pertain to lots 1 - 12 which front directly on Washington Ave. Those protective covenants limit the use, in accordance with the

comprehensive plan, to that of residential and creates in the neighbors, including those of us behind the subject parcel, a private right of action when someone chooses to even...I believe the language...shall violate or attempt to violate any covenants. This is absolutely a violation of that covenant.

From a logistical standpoint, this is also a real problem directly for the Hebron Meadows subdivision for those roads that you can see directly there: Blue Ridge, Meadow, and Colony. Dr. Johnsons' submitted plans suggest that no left turn will be permitted. If no left turn is permitted, there are going to be a number of people coming through and using those three streets as a thoroughfare from the Lloyd Expressway. And using those three streets as a thoroughfare, I can tell you right now, there are a number of children in our neighborhood, a high number of children. In fact, my two are here tonight. I can't believe they're being this good. That raises some really significant concerns. In fact, just this year, I believe in March, one of our neighbors was hit by a car going through that neighborhood. With significantly increased traffic flow because of the immediate available right hand turn and then secondary right hand turn onto Dr. Johnson's property, I think we can all be certain that there will be a significant increase of traffic flow through that residential area.

And finally, I found it interesting that both Mr. Bartlett and the others indicated that there was a highest and best use, which was a medical office space. Oddly enough, one of our neighbors happens to be in an administrative capacity with St. Mary's Hospital and St. Mary's Health System and Medical Center. St. Mary's holds a right of first refusal. When Dr. Sellers had that property they held a right of first refusal and guess what, we've all heard, they didn't exercise it. They don't want this property. How can it be a highest and best use for a medical office space? St. Mary's, the largest neighbor, probably with the deepest pockets, didn't want that property as medical office space.

And the last point, I think, again, this property has been...this is really...what Dr. Johnson is asking is forgiveness rather than permission. He started the process by bidding upon the property with a contingency. There was a second offer placed upon the property, incidentally, more. And so he removed his contingency and wants to keep it as a residence. That should tell you the highest and best use. He wants to keep it as a residence.

And so, lastly, I'd like to ask all of my neighbors who are here with us tonight to stand up please in opposition and make yourselves known to the Council.

I think without any...yes ma'am?

**President Robinson:** Once they are seated then I would like to see everyone that lives on Washington Avenue to stand. Okay thank you.

**Lee Veasey:** Are there any questions?

**Councilman McGinn:** I do have a question or two yes, thank you.

Your home is also in Hebron Meadows subdivision?

**Lee Veasey:** Yes sir.

**Councilman McGinn:** When you purchased your home, you were given a copy of the Protective Covenants?

**Lee Veasey:** Actually I did that...I found that in my own title research.

**Councilman McGinn:** Okay, but as a lawyer you know that when you buy a home in a subdivision you are subject to the restrictive covenants, protective covenants if they are properly recorded which these appear to be.

**Lee Veasey:** Yes, which covenants must be, yes.

**Councilman McGinn:** Okay, so your home in Hebron Meadows is subject to this covenant, which you provided us. Page one, paragraph one, two, three, four, sub-paragraph one: All lots created in the above described property shall be known and described as residential units. No structures shall be erected, altered, placed or permitted to remain on any residential building lot other than one detached single family dwelling, not to exceed two-stories in height and a private garage for not more than three cars and other outbuildings incidental for residential use of the plot.

So your home is subject to that restriction, is it not?

**Lee Veasey:** It is subject to a very similar...this only deals with the parcels directly fronting on Washington Avenue. This is Section I, but yes, very similar.

**Councilman McGinn:** Okay, this covenant then is the one that deals with that one.

**Lee Veasey:** That is correct.

**Councilman McGinn:** So when he purchased this property he was subject to this covenant.

**Lee Veasey:** That is correct.

**President Robinson:** I have a question then and I want to ask this to our Counsel now. With this protective covenant, if we rezone it, do we have a chance of being sued?

**Counsel Hamilton:** Well, we haven't heard the other side of this. This is the first time I've looked at it but certainly you would...I'm sure you would be named in any litigation. I think there is even a case cited in here that I'm looking at that addresses that.

**Lee Veasey:** Yes, I've also provided as an exhibit the Ogden case out of Vanderburgh County, which deals with an issue similar to that, and I've highlighted the operative language and underlined it for your review.

**Counsel Hamilton:** That would certainly be a risk.

**President Robinson:** A risk, okay. Councilwoman Mosby and then Councilwoman Riley after.

**Councilwoman Mosby:** So do you have a current Home Owners Association in place?

**Lee Veasey:** No, no. there is not a current...

**Councilwoman Mosby:** And so these covenants were written when?

**Lee Veasey:** These covenants were initially recorded in 1949 and have been ratified every ten years thereafter.

**Councilwoman Mosby:** So Area Plan...can someone from Area Plan answer...so would these still be current then?

**Janet Greenwell:** Janet Greenwell with Area Plan.

**Councilwoman Mosby:** Thank you.

**Janet Greenwell:** I...those are private covenants, not subject to enforcement by any government agency. I have no knowledge of them, whether they are still in effect or not.

**Councilwoman Mosby:** Okay, so it's not anything that was actually published or...

**Janet Greenwell:** No

**Councilwoman Mosby:**...into Area Plan

**Janet Greenwell:** No. It was recorded and run with the titles of the lots in the subdivision.

**Councilwoman Mosby:** Okay, thank you

**President Robinson:** Councilwoman Riley

**Councilwoman Riley:** Is this the right page I'm looking at up here that's titled...this 120?

**Lee Veasey:** That's correct.

**Councilwoman Riley:** And it's your position that all eight of these covenants are valid?

**Lee Veasey:** There was a modification, which I've also placed in your documents, but it does not...it deals with a bit of frontage and side street set-back lines but nothing to do with...

**Councilwoman Riley:** Well I'm just curious because number five says, "The land hereby conveyed shall not be sold, leased to nor be occupied by a person other than of the Caucasian race.

*(Loud uproar throughout the room)*

**Councilwoman Riley:** And so, I mean...

**Councilwoman Mosby:** So these are still in effect?

**Lee Veasey:** We can't...obviously...those that are...I believe there is also language, which would obviously be in effect from a public policy standpoint that...invalidation of any one of these covenants by judgment or court order shall in no other way *(Inaudible)*

**Councilwoman Riley:** But you're basically saying they're severable so these one...

**Lee Veasey:** Yes, these are severable covenants.

**Councilwoman Riley:**...so these ones that would basically be...Okay

**Lee Veasey:** Absolutely.

**President Robinson:** So was item number five ever amended?

**Councilwoman Riley:** Well it's illegal.

**Lee Veasey:** It's an illegal covenant.

**Councilwoman Riley:** It's been superseded by other law.

**Councilman O'Daniel:** They just never repealed it.

**Councilwoman Riley:** They just haven't repealed it.

**Lee Veasey:** That is correct, that is correct. And Mr. Bodkin informs me that...

**President Robinson:** *(Inaudible)* neighbor.

**Lee Veasey:**... please, come on down. In fact, I hear you can...I hear you can buy the house for \$529,000 perhaps.

**President Robinson:** I'm the wrong color.

**Lee Veasey:** Well no, that's dealt with by title lawyers frequently and invalidated.

**Councilwoman Riley:** I might turn my microphone off but you say they are severable.

**Lee Veasey:** Absolutely.

**Councilwoman Riley:** Obviously some of them...and they're...I do see your point that this first one clearly says that it's residential and I did peruse through the case that you conveniently underlined for me, that was perfect. So I understand what you're...I think I understand what you're saying. I also...just an observation that I want to make that this house at 4000 Washington does not appear, I mean you clearly live closer to these heliport landings than the house at 4000 is and so your property is still enjoyed as a residential...

**Lee Veasey:** As a matter of fact, Steve Thomas...Mr. Thomas and I share the heliport. It is a big selling point for the four year old in the back of the room that there is a heliport behind the house, so it's very marketable.

**Councilman Adams:** How many times a day do they bring a helicopter there?

**Lee Veasey:** You know, I don't even notice anymore.

**Councilman Adams:** In my memory it was only a couple of times a day.

**Lee Veasey:** At best, maybe two to...two to four times a day, you know. Obviously, you know, we can't predict the pattern of emergencies.

**Councilman O'Daniel:** Lee, do you know if...was there any zoning in effect when these private covenants were adopted in '49 or thereabouts?

**Lee Veasey:** I am not sure when the...

**Councilman O'Daniel:** I mean was this sort of a pre-date to what we have...current zoning laws, and would they necessarily be in effect because we now have zoning? If we rezone it, does it essentially negate those private covenants because it was done, sort of, before zoning was created?

**Lee Veasey:** No, it would not invalidate...

**Councilman O'Daniel:** Because I'm just looking at...it looks like zoning was already in existence when the case that you cited...

**Lee Veasey:** That is correct.

**Councilman O'Daniel:**...was done but if this predates it, you know...

**Lee Veasey:** Well, and the case law, in the language it's pretty instructive that state statute and local ordinance recognize covenants as another type of written commitment restricting land use, so therefore they are going to survive, you know, to the extent that many of them are...to the extent that they are not found to be in violation of public policy.

**Councilman Friend:** So it's your premise that if this Council would rezone that then those folks could take action.

**Lee Veasey:** Yes, in fact the covenants do provide them with a private right of action that actually could, at this point...could, when it was filed, sue to enjoin. Obviously, the use of the administrative remedies is probably a more prudent method to go about doing so rather than immediately preceding to litigation.

**Councilwoman Mosby:** I do have a question. You were talking about the ingress and egress.

**Lee Veasey:** Yes

**Councilwoman Mosby:** It's my understanding that the no left turn was coming out of the property. It's sounds like you were referring to turning into the property.

**Lee Veasey:** Correct, and I'm referring to a convenience. I think anyone driving that road frequently, first of all you are going...there is a lot of traffic in and out of the Emergency exit and there is also an offset to Stockwell so there are a significant number of intersections coming into Washington Avenue in a very short period of time so there is a pretty highly congested traffic situation. The addition of, well, with that being the case, I think you're going to want a right turn so anyone going coming into the practice is going to want a right turn, given, you know, Green River

Road is really the next street up. You've got, I think, Hebron, which is...,but it's not a lighted intersection. But Green River Road...so you've got a significant flow of traffic, high number, high volume of cars coming into that so I think it would necessitate a right-hand turn.

**Councilwoman Mosby:** Yeah, I'm very familiar. My doctor is Dr. Tuley on Washington Avenue.

**Lee Veasey:** Sure, sure.

**President Robinson:** Okay, any other questions on the...I'm just in *shock* right now.

*(Laughter)*

**President Robinson:** Yeah, I can't continue to *(Inaudible)*

**Councilwoman Mosby:** I really...I don't see how these can be enforced with some of the documentation that's in here. It's just very racist and...

**Lee Veasey:** I'll allow...I'll allow someone who is more familiar with title work.

**Chris Wischer:** Hi, I'm Chris Wischer. I'm an attorney with the Bamberger firm and a large part of my practice is title work...title, title insurance, title opinions. These are actually pretty...you'd be surprised how prevalent these types of covenants are on real estate. They are so prevalent that when we issue title insurance and we exclude, you know, when we have exceptions to title insurance, one exception is always restrictive covenants. If there is a restrictive covenant it's mentioned and there is always a statement that comes after that, that excepts any of these types of provisions because they are clearly illegal, they are clearly invalid. They were put in place years and years ago. Any time before the '40s you see them quite a bit and they are invalid. They are unenforceable but the law is held that it doesn't invalidate the rest of the very enforceable covenants. And that clearly says that in that particular covenant but I think you are right to be offended by that very provision but it's really nothing. For the people who live there in that subdivision now that's not part of who they are and to ascribe that to them I think would be an unfortunate mistake.

So if you have any questions about that, the title part of it, that's mostly what I do so I just thought I'd kind of clear that up.

**President Robinson:** Thank you. Any other questions? Mr. Amsler.

**Marty Amsler:** How do you do. I'm Marty Amsler, I'm on the Area Planning Commission. I was asked by one of your members if I would come here today and kind of help you a little bit on what we did.

We did a lot of due diligence on this and asked a lot of questions. Based on the square footage that they gave us, the parking is adequate. Now I don't remember whether that was a 1,000 square feet or 2,000 square feet. The other one was a 200 square-foot sign; that's a big sign, people. That's a huge sign. But one of the biggest things, and having been on the Safety Board, is that Washington Avenue is a very, very dangerous road. I don't care what anybody says, it's a very dangerous road. And it really cannot hold more traffic going in and coming out, I don't care which way you go, it's

very dangerous. You know about the accidents that happen here all the time. The officer over here, I don't know whether he's called on any of them but there are many that happen there.

The only thing I can say...you know, when they originally got up here, they talked about the doctor taking care of athletes and veterans and disabled vets. My dad was a disabled vet, lost his one leg, left leg, took off the pelvis and all, very radical. I've never heard of Dr. Johnson. Having been in sports, I came back here in '95, and yeah, I ache all the time. I don't go there, anybody like that. And it has nothing to do with the people that are going to him. It has to be with the location, not with his practice, with the location. Thank you.

**President Robinson:** Thank you. Yeah

**Lee Veasey:** I've also included within your packet...is the last...I believe after the case, we went ahead and plotted the return addresses of those who provided them from those letters. You will notice that none, absolutely zero, are within the neighborhood. In fact many of them...north side, Newburgh, which I didn't provide to you, I didn't think that was necessary, Owensboro and otherwise.

We are also not asking that Dr. Johnson not practice. We are simply asking that he not be permitted to rezone that property so as to practice medicine there. Thank you.

**President Robinson:** Thank you. Is there anyone else to speak out against it? Your name and your address please.

**Martha Klueh:** Martha Klueh, 3919 Washington Avenue. Mr. Bohleber, I do live on Washington Avenue. I am across the street from Mr. Johnson.

**Steven Bohleber:** *(Inaudible)*

**Martha Klueh:** Ms. Robinson had the other people who live on Washington Avenue standup. So, I do live on Washington. The helicopter goes right over my house and I don't even hear it. I've been at my house for fourteen years. I love my home. We've got Mr. Collin, but he lives on Stockwell. He was born in his house in 1965, he's never left, we've got Ms. Fischer, 50 years, the *(Inaudible)* at the end of Stockwell, 35 years, the Stuckey's, 20 years, Schmitt's, 24 years, and I could go on. I'm not going to bore you. I'm just saying that these neighbors, we've been there a long time and we plan to be there a lot longer after Dr. Johnson destroys this property. We have been there a long time and we are planning on staying. We are not retiring. We are going to live here. We love our neighborhood. We love the people. We know everybody. I can tell you who walks up and down my street. I can tell you who uses Stockwell to come out onto Washington Avenue because it's a problem to come out on Harrelton because of the light. I see Mrs. Grimm and Dr. Grimm on a regular basis; they use Stockwell.

I have the perfect house to turn into a doctor's office if any house was going to be turned on Washington Avenue, it would be mine. I don't know if you can pull that plat up again but I'm straight across the street from him. I have a second lot on the back of my house. Now I wouldn't even dream of rezoning my home commercial. I don't think Steve and Stacey Church would appreciate a doctor's office or a parking lot right in their front yard. I would never ever, ever, ever dream of doing that to my neighbors.



He's been in this neighborhood, he purchased the house. I don't know what the purchase date is but at the meeting that we had last week on December the 4<sup>th</sup>, I was present, Kathy Hubert was present a long with our lawyers at Bamberger. Dr. Johnson stated he was surprised how easy it is to get out on Washington Avenue and I disagreed with him and he looked at me and he said, "I should know; I live on Washington Avenue", and I looked back at him and said, "Excuse me, do you know who I am?" He had no idea who I am because his house is black every night. He doesn't live there. If he actually lived there right now, he would know who I am. All the neighbors can tell you, I'm in my yard, especially in the fall, every two to three days doing leaves. If he is actually living in the house he would know I was his next door...across the street neighbor.

Also in this meeting, Mr. Bohleber asked if there was anything he could do to make us happy so he could zone that property and I said, "Really not", because this is not the proper use for this property. That's what Professional Boulevard was designed for. There are office buildings, four office buildings in St. Mary's that have openings. There is office space down closer to Schnucks that has offices open.

Dr. Johnson got very upset with Kathy and myself when we said we had nothing to add or no questions and he threatened both of us and said, "If you don't let me do what I want to do with this property, I'm just going to sell it to anybody", and then his wife chimes in and said, "Yeah, I have a son that has six cars and I just might have him come live with us and pour concrete all over the grass". You know, that's not these people out here. We are not like that. We are not threatening. We are not intimidating. We are good people. We have retired people, we have doctors, we have lawyers, we have professional people, and we have young couples with children. This is not what this neighborhood is about and it would just a (*Inaudible*) to have it rezoned to commercial.

At the Area Planning Commission, 12-0; that's how much they trusted that this was not an appropriate use for this property and I'm hoping that tonight 9-0 will be your choice to not rezone this property because it was not intended to be commercial. The Woodward's made this a beautiful home; it was intended to be residential. Obviously someone made a bid on the house and really wanted it to raise their two children there and that's the way it should stay...as residential.

**President Robinson:** Okay. Any questions? Thank you. Is there anyone else? We need to wrap...okay.

**Chris Schmidt:** My name is Chris Schmidt. As Martha said, I have lived one block south of that intersection for 24 years. I've got a high school aged daughter. I appreciate all the high schoolers here just so you can see what this process is like and this is what it is. I appreciate the Council here for hearing us.

But what I handed you is, to me, the top five...I'm going to cut it short, half of what David Letterman would do, but on the backside is an aerial view I just got off of Google today that shows that intersection, and more importantly, it doesn't really show it in here but it shows again that intersection of how, as how it was described, this St. Mary's Emergency exit is on the left, Stockwell is offset about 10 yards then the circle loop of the entrance for this residence is right, again, about five yards off from that and then the other end of the circle. So what it ends up being is you have four entrances/exits in one short area and, again, it's a safety issue. So I'll start with the last one: 5) The owner sell this to anybody or for commercial use later. I've heard now that he says he *shall* sell it residential after he's done but I don't know how legal that means or why not say the word *must*.

The other thing is I was really shocked when I just heard that this property was potentially being offered for \$4,000 more than he was being offered it, for residential use.

4) There are already multiple commercial properties available in the area, and again, Professional Blvd., when we were told by the Area Plan/City Council at that time that it was being rezoned specifically for this purpose, and again, I think that's the point. If he's really serious about it and he doesn't mind walking over to St. Mary's to see patients, why doesn't he just lease some property over there on Professional Blvd., walk across the street to his office over there.

3) The hospital ambulance emergency exit/entrance is located just a few yards away, like I said, there are ambulances going in there all the time. It was mentioned, the left turn only coming out of his residence, that's turning right into the path of the emergency entrance/exit for St. Mary's. And again, that doesn't mean that they won't turn left because St. Mary's put a Left Turn Only at that emergency exit because there have been accidents there but people turn there left anyway because as you well know, you saw some orange poles stuck in there recently and had to take them out a week later because the people kept doing it. By the way, I think they ought to move their sign back off the sidewalk for a better view of that intersection, by the way.

Safety, police, traffic accidents have been mentioned again and the Number 1 reason is the Area Plan Commission voted, not just a simple majority, but 12-0. Why Dr. Adams was there and I was there is the real reason why it was voted such because this is, like it was said, we are not against the patients, we think it's great they are for him but not this location. He can lease an office for a few years until he retires.

Thank you very much.

**President Robinson:** Any other questions.

*(Inaudible language – Unidentified Speaker)*

**Unidentified Speaker:** Mr. Bohleber mentioned that they would like to purchase their dream home; we already did.

**President Robinson:** Ma'am, can I have your name?

**Katherine Hubert:** I'm Katherine Hubert. My property backs up to this house on 4000 Washington Avenue and we have people like a...as she pointed out earlier, who have lived in their dream home for a long time. One of the things that sold me on my dream home was the wonderful, wonderful back yard. But this gentleman happened to mention...dropped Greg Hoffman's name, that moved out of there 18 years ago, not because of helicopter, but it's got its own story. But helicopters don't bother us, we don't hear them anymore. You know how it is. You hear the train and then you don't hear the train anymore.

And then as far as, you know, those old covenants go, you know, I don't have...I'm not up on all that stuff you guys have to be up on, but I can tell you that a black family did move into our neighborhood and we were very sad when they chose to leave. We have our yearly picnic...we haven't found it necessary, sadly enough, to see that we need a neighborhood association. These people have personified this home. They've spent many, many, many, many, many minutes personifying this home. So let me personify it. Let it remain a sentinel for our neighborhood and

the neighborhood across the street instead of a big splat. And it will affect our homes, most definitely.

**President Robinson:** Any questions of Mrs. Hubert? Thank you.

Mr. Bohleber, before you come up and address some things, especially the protective covenant, I guess I have one question for Dr. Johnson. I know you're going to have to...could you...does he need to come to the podium? Okay. And maybe you can help me with this. It sounds like you are going to have to do major renovation to...

**Dr. David Johnson:** It sounds like I have to tear down one of the garages. We have four garages and that covenant says only three so I'm going to have to ruin the house right off the bat to comply.

**President Robinson:** But with your elevator and other things, how does that compare with you leasing an office on Professional Boulevard?

**Dr. David Johnson:** Well number one, since our original meeting, I've looked at Professional Boulevard and there was one gray building available. It's too big for me; it's huge, but Dr. Michael Chou, a neurosurgeon friend of mine that I refer patients to, just bought it. Now his little spot that he's moving out of will become available but if you look, almost all of the spots along there are taken. Now Dr. Sanapati bought the orthopedic place and he has got about...he's divided it up in about six or eight and it looks like he's got a couple of slots available. But really, for my need, there isn't anything available on Professional Boulevard. Now the pharmacy moved out at the other end. I don't know anything about that one. It's kind of off the beaten track on Professional Boulevard. But even if I moved on to Professional Boulevard, those people I have will still have to get out onto Washington Avenue and Professional Boulevard just about goes right into Meadow Drive which leads into their neighborhood. So I would be sending my patients onto Washington Avenue, which is right in front of the entrance to their neighborhood, the people that are mainly remonstrating against me.

**President Robinson:** I don't know if these people...I don't know if the neighbors are upset about the patients, it seems like they are talking about the kind of patients that you serve but I don't think they want their neighbor...

**Dr. David Johnson:** No, I say the same number of people that would be leaving my lot would also be leaving if I were on Professional Boulevard. They would still be going onto Washington Avenue except instead of leaving right by St. Mary's entrance, they'd be leaving right adjacent to Meadow, which leads into their neighborhood. You have to go about a block down, hit Meadow, go up Meadow and then around into their neighborhood. You cannot go from my house to that neighborhood unless you scale a security fence and then cut through their yards so there is no road to the neighborhood that I'm hearing about.

**Councilwoman Brinkerhoff-Riley:** Doesn't Professional Boulevard connect to Covert?

*Many unidentified speakers say yes in response to the above question.*

**Councilwoman Brinkerhoff-Riley:** Yeah, so I mean theoretically a good portion of your patients could be exiting to Covert as opposed to Washington if you were located on Professional Boulevard especially given the ones that live in Newburgh.

**Dr. David Johnson:** Yes, if I was located near that end down there but if I went in with Dr. Sanapati, you know, it's right there at Washington. It would...so...I don't really know. The little elevator that we were going to put in, it sits in the nook of the house; it's just filling up kind of an empty space. The only renovation would be an elevator to get up to that second floor because the stairs are just a little too steep for the people I have.

**President Robinson:** Councilman O'Daniel.

**Councilman O'Daniel:** Isn't there also space available in the old Welborn Clinic down at basically Washington and Hebron, which is a quarter mile away, and also space in the East and West buildings of St. Mary's office buildings.

**Dr. David Johnson:** Well I'm sure there are spaces all over town but you're talking about the one across from Schnucks. That's not Professional Boulevard...

**Councilman O'Daniel:** No, no I'm just saying that within...you know we talked about Professional Boulevard but there is also other office space available that we haven't even talked about including that which is actually on the St. Mary's campus which is serviced by two stoplights.

**Dr. David Johnson:** Yes, yes, there is office space available everywhere but like I told one of my patients the other day, I really don't want to sign a long-term lease at my age and that's one of the things they'll hit me with.

**Councilman O'Daniel:** But isn't that part of the, you know, isn't that part of the reason you are doing this... its financial, but you're talking about putting an elevator in your house. That's got to cost you \$70,000.

**Dr. David Johnson:** You know I don't know yet.

**Councilman O'Daniel:** You're talking about a long-term lease, I mean...

**Dr. David Johnson:** And this whole situation may be moot if the cost of what I'd like to do is that much.

**Councilman O'Daniel:** Well we are talking about major renovations here to your home, I mean...

**Dr. David Johnson:** Well that big old house, they've called it a mansion, it needs an elevator.

**President Robinson:** Thank you. Mr. Bohleber, I guess you can address *(Inaudible)*

**Steven Bohleber:** Very briefly, if I could talk about a few things. I don't want to repeat myself.

Obviously, we have a totally different approach to this neighborhood, and again, I have not lived in that neighborhood. I am very familiar with it. I had a great aunt who lived near Lombard and Washington so I did spend a lot of time there. What I have seen over my lifetime is a change in that neighborhood from a quiet residential area to a bustling, busy commercially oriented street. St. Mary's probably did a lot to change all that.

Spot-zoning, functionally, I think this is totally consistent with its next door neighbor, St. Mary's Hospital. I think the fact that this will revert to residential makes it unique. Anyone else approaches properties along there are probably not going to approach it that way. I think we put together a Use & Development Commitment, again, without any suggestions or input that works its way towards these goals as best we can.

Safety issues: I don't see any that were brought up at the preliminary stage of the Area Plan Commission, the inquiries to the various government entities, those will be addressed at Site Review if this is approved. I didn't see any significant concerns about that addressed.

I think Mr. Amsler is absolutely correct. There is no variance needed here as has been suggested for parking if you rezone this and only allow 2,000 square feet for commercial activity that would not be required.

What the covenants mean in the courtroom and what the court will decide with something that is older than me and has a bunch of unconstitutional provisions I cannot address here today. I would suggest, however, that if you look at the literal reading of that we've already got, I think Dr. Johnson is correct; the house has been in violation for a long time. I would suspect when people look back at an ancient covenant, all sorts of arguable violations can be found as people develop and use properties for other purposes. That's for another forum; not for this City Council to decide I believe. It's much more complicated than we can address here tonight, the enforceability of those ancient covenants on this property.

What I would think is important for you to remember here folks is that...and I realize the neighbors are adamant, I realize they are passionate about this but realistically, let's be objective and not let emotion on either side sway this. This has been, compared to some contentious rezoning matters I've had, very polite as we all know and you've seen a lot of these as well.

I frankly think the ship long ago sailed on the residential character of that section of Washington Avenue, I'm sorry. The proposed use...part time, temporary for part of the property while still preserving its residential character is the best bet for this property. It didn't sell as a residence for two years. It sold at foreclosure prices. The use is consistent with a huge number of uses from Lombard to Hebron along Washington. As Councilwoman Mosby pointed out, within spitting distance also is her doctor and fellow that I know as well, Bill Tuley. If you look at the exhibit I have there, doctor's offices all up and down this stretch of Washington Avenue, mostly to the west.

I think the rezoning of this property with the restrictive covenants we've placed on it is the best for all concerned. It will allow my client to go into semi-retirement in a home. You know, he might even decide to rezone it and live there when he retires. We don't know that at this point. He might like it but the point is he didn't ask and he's not asking that it be rezoned for an office like a lot of folks have done. This is his home. He's not going to trash his home. He's not going to trash his neighbors' homes. I think realistically, once this is here, it will become the norm. It will not be a problem for the neighbors like all the others up and down there were not ultimately problems for those neighbors either as they slowly, slowly became commercial.

The decision is yours. We spent a lot of time here. I respect your decision, whatever it is, and I have nothing further to add.

**President Robinson:** Thank you. *(Inaudible)*

**Counsel Hamilton:** Are you talking about the covenants?

**President Robinson:** Yes.

**Counsel Hamilton:** Okay, well just on their face, I mean, I can't tell you what a judge is going to do. I don't know what the defenses of this would be. I'm not a title attorney as Mr. Wischer is. On their face, the covenants run with the land, they are binding on all parties, they ran until '73 and then it says they are automatically extended for successive periods of 10 years unless a majority of the homeowners agree to change them or to revoke them, which I have no record of any of that. It does have a Clause of Severability, which says that, "Invalidation of any one of these covenants by judgment or court order shall in no wise affect any of the other provisions which shall remain in full force and effect", so on its face, it could be enforceable. I don't know the facts of any defenses. I can tell you that any action by this Council does not affect the enforceability of these covenants; they are what they are. If you grant the rezoning, they could still be enforceable and a judge could find that this zoning was improper and void it in effect. That's about as much as I can give from just a review of the document.

**President Robinson:** Okay, appreciate it.

Is there a motion to adopt Ordinance R-2012-19 as amended with Use and Development Commitment and call the roll?

Councilwoman Mosby moved and Councilman Adams seconded the motion to adopt Ordinance R-2012-19 as amended with Use & Development Commitment and call the roll.

**Councilman McGinn:** I'm going to have to say a few things here; I've been very quiet for a while here. I want to point out a couple of things: One of the experts came up here and said, "Locational obsolescence just destroys this as a residence", and yet the next expert witness came up here and said they had an offer of \$4,000 more than Dr. Johnson's offer to buy it as a residence. So I think we just totally throw out this locational obsolescence.

The other thing is that, you know when I was a kid, I didn't know what the rules were for domino games so I used to set them up in a big line and then you hit that first one and watch them all tip-tap down, you know, really cool. The first domino is this house right here. If you look, everything around that house, all behind it, Colony, everything, it's all yellow, it's all residential. I don't want to have anything to do with being the first guy to knock over that domino and start the downward trend of this neighborhood because then the second guy who comes in here and wants to buy the house next door, two doors' down or the one on Colony because the people are moving and says, "Well you did it for Dr. Johnson, it's only one more. The whole neighborhood is already changing". This neighborhood is not changing. These people have been fighting all of their lives to maintain these houses...beautiful, beautiful condition. It's a nice neighborhood. It's all yellow, you know, and I believe personally, I don't care how you define your job, my job is to make sure government doesn't do bad things to good people, you know.

I represent these people and they don't want this business in their neighborhood and I am asking you all to vote no on it. I vote no as strong as I can possibly vote no.

**Councilwoman Brinkerhoff-Riley:** I too would like to say something. I have to agree with Councilman McGinn on a lot of his points and many of you that have come here today to

remonstrate are currently members of the First Ward. You are residents and Councilman McGinn is your representative. But for many of you, come January 1, I will be your representative. You will be in the Third Ward. You have...you know...that is one of the things that we will vote on tonight and I want you to know, first of all, welcome. Welcome, welcome to the Third Ward. I hear what you are saying. You know, it's hard to believe that this property life as a residential property is over given the offer that was made after the fact. I think part of real estate is finding the right price. Everything will sell for the right price. Unfortunately, you know, finding the right price for this real estate took a while.

This is a very nice neighborhood. I drive through it. I respect you desire to maintain your homes and the safety of your children. You know, the life as a residential property is not over and I too vote no.

**Councilman Lindsey:** Yes, before I vote, I would like to say a couple of things. I worked over at Station 16 for eight years. I was captain over there. I've worked many of your neighborhoods and may have seen you on that truck and I hope I wasn't rude to you. If I was, I apologize. It could have been the time of day. But I too feel as Dan does. We are here to do good things to keep our neighborhoods strong and with that in mind, I vote no.

**Councilman O'Daniel:** Just before I vote, I want to commend Mr. Bohleber. I think it's been very good presentation. I also want to commend Mr. Bodkin and Mr. Veazey on their impassioned responses as well as the neighbors. You know I probably agree with Dan more than anything tonight because I do think we can't do bad things. Mr. Bohleber used the word obsolescence and I look at that and, you know, I think what happened is Mr. Woodward, 15 years ago, when he repurposed this home as his home, put up a barrier to make sure this didn't happen. He saw this as a neighborhood and he wanted to put up that wall to make sure we didn't have that creep. Nothing has really changed in those 15 years. The heliport was there back in the '80s and early '90s. There was already commercial development on the south side of the street. He made it his home and then Dr. Sellers made it his home and Dr. Johnson actually bought it as his home because he removed any commitment that he put on that and as such, it is going to remain a home so I vote nay.

#### **ROLL CALL**

**Ayes:** Mosby, Friend, Weaver

**Nays:** McGinn, Brinkerhoff-Riley, Lindsey, Adams, O'Daniel, Robinson

**President Robinson:** There being six (6) Ayes and three (3) Nays, Ordinance R-2012-19 as amended with Use & Development Commitment is hereby declared denied.

#### **CONSENT AGENDA**

#### **SECOND READING OF ORDINANCES OR RESOLUTIONS**

#### **ORDINANCE G-2012-23 (amended) PUBLIC WORKS**

**McGINN**

An Ordinance to vacate a platted public way or place (Cring Ave.)

#### **ORDINANCE G-2012-24**

**A.S.D.**

**MOSBY**

An Ordinance amending Chapter 12.05 of the Evansville Municipal Code (Streets and Sidewalks)

#### **ORDINANCE G-2012-25**

**PUBLIC WORKS**

**McGINN**

An Ordinance amending Chapter 1.10 and Establishing New Councilmanic Districts

**ORDINANCE G-2012-26****A.S.D.****MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for Taxicabs for Unity Taxi

**ORDINANCE F-2012-22 amended FINANCE****FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing transfers of appropriations, additional appropriations and repeal and re-appropriation of funds for various city funds

**ORDINANCE F-2012-23****FINANCE****FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing additional appropriations of funds for Fire Riverboat

**COMMITTEE REPORTS:****PUBLIC WORKS COMMITTEE:****CHAIRMAN M<sup>c</sup>GINN**

**Councilman M<sup>c</sup>Ginn:** Madam President, your Public Works Committee met this evening to hear Ordinances G-2012-23 as amended and G-2012-25 and they come forward with a do pass recommendations.

**A.S.D. COMMITTEE:****CHAIRWOMAN MOSBY**

**Councilwoman Mosby:** Madam President, your A.S.D. Committee met this evening to hear Ordinance G-2012-24 and G-2012-26 and both come forward with do-pass recommendations

**FINANCE COMMITTEE:****CHAIRMAN FRIEND**

**Councilman Friend:** Madam President, your Finance Committee met this evening to hear Ordinances F-2012-22 as amended and F-2012-23 and they come forward with a do-pass recommendation.

**President Robinson:** Thank you. Can I have a motion to accept the Committee Report and move this Resolution to Third Reading?

Councilman O'Daniel moved and Councilwoman Mosby seconded the motion to accept the Committee Reports and move this Resolution to Third Reading. Voice vote. So ordered.

**REGULAR AGENDA****THIRD READING OF ORDINANCES AND RESOLUTIONS****ORDINANCE G-2012-23 (amended) PUBLIC WORKS****McGINN**

An Ordinance to vacate a platted public way or place (Cring Ave.)

**President Robinson:** Is there a motion to adopt Ordinance G-2012-23 as amended and call the roll?

Councilwoman Mosby moved and Councilman O'Daniel seconded the motion to adopt Ordinance G-2012-23 as amended and call the roll.

**ROLL CALL**

**Ayes:** McGinn, Mosby, Friend, Lindsey, Adams, O'Daniel, Weaver, Robinson



**President Robinson:** There being eight (8) Ayes and zero (0) Nays, Ordinance G-2012-23 as amended is hereby declared adopted.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-24**                      **A.S.D.**    **MOSBY**

An Ordinance amending Chapter 12.05 of the Evansville Municipal Code (Streets and Sidewalks)

**President Robinson:** Is there a motion to adopt Ordinance G-2012-24 and call the roll?

Councilman O'Daniel moved and Councilman Friend seconded the motion to adopt Ordinance G-2012-24 and call the roll.

**ROLL CALL**

**Ayes:** McGinn, Mosby, Friend, Lindsey, Adams, O'Daniel, Weaver Robinson

**President Robinson:** There being eight (8) Ayes and zero (0) Nays, Ordinance G-2012-24 is hereby declared adopted.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-25**                      **PUBLIC WORKS**    **McGINN**

An Ordinance amending Chapter 1.10 and Establishing New Councilmanic Districts

**President Robinson:** Is there a motion to adopt Ordinance G-2012-25 and call the roll?

Councilman O'Daniel moved and Councilwoman Mosby seconded the motion to adopt Ordinance G-2012-25 and call the roll.

**ROLL CALL**

**Ayes:** McGinn, Mosby, Friend, Lindsey, Adams, O'Daniel, Weaver Robinson

**President Robinson:** There being eight (8) Ayes and zero (0) Nays, Ordinance G-2012-25 is hereby declared adopted.

**Counsel Hamilton:** Just so you know, Laura, you need to send a copy of that redistricting to the County Commissioners and the County Clerk.

**Madam Clerk:** Okay, thank you.

**Counsel Hamilton:** They will take it from there.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-26**                      **A.S.D.**    **MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for Taxicabs for Unity Taxi

**President Robinson:** Is there a motion to adopt Ordinance G-2012-26 and call the roll?

Councilman O'Daniel moved and Councilwoman Mosby seconded the motion to adopt Ordinance G-2012-26 and call the roll.

**ROLL CALL**

**Ayes:** McGinn, Mosby, Friend, Lindsey, Adams, O'Daniel, Weaver, Robinson

**President Robinson:** There being eight (8) Ayes and zero (0) Nays, Ordinance G-2012-26 amended is hereby declared adopted.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE F-2012-22 amended FINANCE**

**FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing transfers of appropriations, additional appropriations and repeal and re-appropriation of funds for various city funds

**President Robinson:** Is there a motion to adopt Ordinance F-2012-22 as amended and call the roll?

Councilman Friend moved and Councilman Weaver seconded the motion to adopt Ordinance F-2012-22 as amended and call the roll.

**ROLL CALL**

**Ayes:** McGinn, Mosby, Friend, Lindsey, Adams, O'Daniel, Weaver, Robinson

**President Robinson:** There being eight (8) Ayes and zero (0) Nays, Ordinance F-2012-22 as amended is hereby declared adopted.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE F-2012-23 FINANCE**

**FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing additional appropriations of funds for Fire Riverboat

**President Robinson:** Is there a motion to adopt Ordinance F-2012-23 and call the roll?

Councilman Friend moved and Councilwoman Mosby seconded the motion to adopt Ordinance F-2012-23 and call the roll.

**ROLL CALL**

**Ayes:** McGinn, Mosby, Friend, Lindsey, Adams, O'Daniel, Weaver, Robinson

**President Robinson:** There being eight (8) Ayes and zero (0) Nays, Ordinance F-2012-23 is hereby declared adopted.

**Councilman Adams:** I would just like to thank you all for passing this so quickly and with such aplomb. It will really diminish the exposure to carcinogens very, very quickly.

### **MISCELLANEOUS BUSINESS**

President Robinson: There will be a regular City Council meeting next Monday, December 17, 2012 at 5:30 p.m. Committee meetings will begin at 5:15 p.m. on December 17, 2012. That will be Mr. Hamilton's last meeting. There will not be any City Council meetings on Monday, December 24<sup>th</sup> (Christmas Eve) or Monday, December 31<sup>st</sup> (New Year's Eve). The first meeting of 2013 will be Monday, January 7, 2013.

We also had in our packet a list of board appointments that are coming up for renewal. We need to look at those. If you have any suggestions or...Mr. Wheeler has said he wants to serve again on the Redevelopment Commission. Look at all of that so we can reappoint and appoint new people in January. No one is guaranteed that they will stay in that position. There will be some rotation probably. For some of you, this will be your second time; you'll probably want to give some...have some people come before us and submit some resumes and see who is interested in these positions.

### **COMMITTEE REPORTS:**

#### **A.S.D. COMMITTEE:**

Re: Ordinance G-2012-28  
Date: December 17, 2012  
Time: 5:15 p.m.  
Notify: Ted Ziemer

#### **CHAIRWOMAN MOSBY**

Amending Chapter 8.10 (Nuisances)  
of the Evansville Municipal Code

Re: Ordinance G-2012-27  
Date: December 17, 2012  
Time: 5:20 p.m.  
Notify: Heather Williams

Application for Certificate of Convenience  
and Necessity for Taxicab  
(River City Yellow Cab/Checker Cab)

Re: Ordinance G-2012-29  
Date: December 17, 2012  
Time: 5:25 p.m.  
Notify: David Goldblatt

Application for Certificate of Convenience  
and Necessity for Taxicab  
(Dave's Taxi Service)

Re: Ordinance G-2012-30  
Date: December 17, 2012  
Time: 5:30 p.m.  
Notify: John Noback

Application for Certificate of Convenience  
and Necessity for Taxicab  
(Mighty Cab LLC)

#### **FINANCE COMMITTEE:**

Nothing scheduled at this time.

#### **CHAIRMAN JOHN FRIEND**

#### **PUBLIC WORKS COMMITTEE:**

Nothing scheduled at this time.


#### **CHAIRMAN DAN MCGINN**

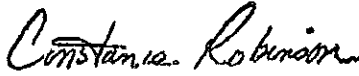
### **ADJOURNMENT**

President Robinson: Can I have a motion for adjournment?

Councilwoman Mosby moved and Councilman Weaver seconded the motion to adjourn.  
Voice Vote. So Ordered.

Meeting adjourned 8:31 p.m.

  
\_\_\_\_\_  
Laura Brown, City Clerk

  
\_\_\_\_\_  
Constance Robinson, President

**AGENDA**

**ROLL CALL**

**PLEDGE OF ALLEGIANCE**

**RECOGNITION OF SCHOOLS**

**READING AND AMENDMENT OF MINUTES**

**REPORTS AND COMMUNICATIONS**

**CONSENT AGENDA**

**FIRST READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-27                      A.S.D.                      MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for the Taxicabs for Yellow Cab/Checker Cab for 2013

**ORDINANCE G-2012-28                      A.S.D.                      MOSBY**

An Ordinance amending Chapter 8.10 (Nuisances) of the Evansville Municipal Code (Abandoned Vehicles)

**ORDINANCE G-2012-29                      A.S.D.                      MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for the Taxicabs for Dave's Taxi Service for 2013

**ORDINANCE G-2012-30                      A.S.D.                      MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for the Taxicabs for Mighty Cab, LLC, for 2013

**CONSENT AGENDA**

**SECOND READING OF ZONING ORDINANCES**

**ORDINANCE R-2012-19 (amended) FROM APC                      R-1 to C-02 w/U & D Comm.**

An Ordinance to Rezone Certain Real Estate in the City of Evansville, State of Indiana, more commonly known as 4000 Washington Ave., Evansville, IN

Petitioner:                      David W. Johnson  
Owners:                      Ralph and Diane Sellers  
Representative:                      Steven Bohleber  
District:                      Dan McGinn, Ward 1

This petition comes forward with a recommendation for denial from the Area Plan Commission, having 12 negative votes. (This was prior to the Use and Development Commitment being filed)

**REGULAR AGENDA**

**THIRD READING OF ZONING ORDINANCES**

**ORDINANCE R-2012-19 (amended) FROM APC** **R-1 to C-02 w/U & D Comm.**

An Ordinance to Rezone Certain Real Estate in the City of Evansville, State of Indiana, more commonly known as 4000 Washington Ave., Evansville, IN

Petitioner: David W. Johnson

**CONSENT AGENDA**

**SECOND READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-23** **PUBLIC WORKS** **McGINN**

An Ordinance to vacate a platted public way or place (Cring Ave.)

**ORDINANCE G-2012-24** **A.S.D.** **MOSBY**

An Ordinance amending Chapter 12.05 of the Evansville Municipal Code (Streets and Sidewalks)

**ORDINANCE G-2012-25** **PUBLIC WORKS** **McGINN**

An Ordinance amending Chapter 1.10 and Establishing New Councilmanic Districts

**ORDINANCE G-2012-26** **A.S.D.** **MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for Taxicabs for Unity Taxi

**ORDINANCE F-2012-22** **FINANCE** **FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing transfers of appropriations, additional appropriations and repeal and re-appropriation of funds for various city funds

**ORDINANCE F-2012-23** **FINANCE** **FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing additional appropriations of funds for Fire Riverboat

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-23** **PUBLIC WORKS** **McGINN**

An Ordinance to vacate a platted public way or place (Cring Ave.)

**ORDINANCE G-2012-24** **A.S.D.** **MOSBY**

An Ordinance amending Chapter 12.05 of the Evansville Municipal Code (Streets and Sidewalks)

**ORDINANCE G-2012-25** **PUBLIC WORKS** **McGINN**

An Ordinance amending Chapter 1.10 and Establishing New Councilmanic Districts

**ORDINANCE G-2012-26**

**A.S.D.**

**MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for Taxicabs for Unity Taxi

**ORDINANCE F-2012-22**

**FINANCE**

**FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing transfers of appropriations, additional appropriations and repeal and re-appropriation of funds for various city funds

**ORDINANCE F-2012-23**

**FINANCE**

**FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing additional appropriations of funds for Fire Riverboat

**MISCELLANEOUS BUSINESS**

There will be a regular City Council meeting next Monday, December 17, 2012 at 5:30 p.m. Committee meetings will begin at 5:15 p.m. on December 17, 2012. There will not be any City Council meetings on Monday, December 24<sup>th</sup> (Christmas Eve) or Monday, December 31<sup>st</sup> (New Year's Eve). The first meeting of 2013 will be Monday, January 7, 2013.

**ADJOURNMENT**

# CITY COUNCIL COMMITTEE MEETING SCHEDULE

## December 10, 2012

### FINANCE COMMITTEE:

Re: Ordinance F-2012-22  
Date: December 10, 2012  
Time: 5:00 p.m.  
Notify: Russell G. Lloyd

### CHAIRMAN FRIEND

Authorizing transfers of appropriations, additional appropriations, and repeal and re-appropriation of funds for various city funds

Re: Ordinance F-2012-23  
Date: December 10, 2012  
Time: 5:00 p.m.  
Notify: Russell G. Lloyd

Authorizing additional appropriations of funds for Fire Riverboat

### A.S.D. COMMITTEE:

Re: Ordinance G-2012-24  
Date: December 10, 2012  
Time: 5:10 p.m.  
Notify: Ted Ziemer

### CHAIRWOMAN MOSBY

Amending 12.05 (Streets and Sidewalks)

Re: Ordinance G-2012-26  
Date: December 10, 2012  
Time: 5:15 p.m.  
Notify: Bill Kramer

Application for Certification for Unity Taxi

### PUBLIC WORKS COMMITTEE:

Re: Ordinance G-2012-23  
Date: December 10, 2012  
Time: 5:20 p.m.  
Notify: Leslie C. Shively

### CHAIRMAN DAN MCGINN

Petition to Vacate a public way or place (Cring Avenue)

Re: Ordinance G-2012-25  
Date: December 10, 2012  
Time: 5:25 p.m.  
Notify: John Hamilton

Amended Chapter 1.10 (Councilmanic Districts)

## December 17, 2012

### A.S.D. COMMITTEE:

Re: Ordinance G-2012-28  
Date: December 17, 2012  
Time: 5:15 p.m.  
Notify: Ted Ziemer

### CHAIRMAN MOSBY

An Ordinance amending Chapter 8.10 (Nuisances) of the Evansville Municipal Code (Abandoned Vehicles)

Re: Ordinance G-2012-27  
Date: December 17, 2012  
Time: 5:20 p.m.  
Notify: Heather L. Williams

Application for Certificate of Convenience and Necessity for River City Yellow Cab/Checker Cab



**December 17, 2012**

***Continued***

Re: Ordinance G-2012-29  
Date: December 17, 2012  
Time: 5:25 p.m.  
Notify: David Goldblatt

Application for Certificate of Convenience and  
Necessity for Dave's Taxi Service

Re: Ordinance G-2012-30  
Date: December 17, 2012  
Time: 5:30 p.m.  
Notify: John Noback

Application for Certificate of Convenience and  
Necessity for Mighty Cab LLC

F24

6:04 pm

The Honorable Council of the City of Evansville is hereby called to order. Madam Clerk, please call the roll.

**ROLL CALL**

<u>✓</u> M <sup>g</sup> GINN	<u>✓</u> FRIEND	<u>✓</u> O'DANIEL
<u>✓</u> MOSBY	<u>✓</u> LINDSEY	<u>✓</u> WEAVER
<u>✓</u> BRINKERHOFF-RILEY	<u>✓</u> ADAMS	<u>✓</u> ROBINSON

There being 9 members present, 0 members absent, and 9 members representing a quorum, I hereby declare this session of Common Council officially opened.

**PLEDGE OF ALLEGIANCE**

This evening the pledge of allegiance will be led by Weaver.

Fellow Councilmen and those in the audience, welcome to the December 10, 2012 meeting of the Common Council.

**RECOGNITION OF SCHOOLS**

Are there any students in the audience who would like to be recognized?

SCHOOL: \_\_\_\_\_  
NAME: \_\_\_\_\_

SCHOOL: \_\_\_\_\_  
NAME: \_\_\_\_\_

**TEEN ADVISORY COMMITTEE:**

Anna Loehr  
Abby Wilson  
Dorothy English

Will Boston  
Lana Dipple

**COUNCIL ATTORNEY**

This evening John Hamilton is City Council Attorney.

**SERGEANT AT ARMS**

This evening Officer Hassler is our Sergeant at Arms.

**READING AND AMENDMENT OF MINUTES OF PRECEDING MEETING**

Is there a motion to approve the minutes of the November 26, 2012 meeting of the Common Council as written?

Councilman Mosby moved and Councilman Friend seconded the motion to approve the minutes of the regular meeting of the Common Council held November 26, 2012 as written. Voice vote. ✓ So ordered. ✓

**REPORTS AND COMMUNICATIONS**  
**IN YOUR DECEMBER 7<sup>TH</sup> PACKET:**

- \*City Council Meeting Agenda for December 10, 2012.
- \*Committee Meeting Schedule.
- \*City Council Meeting Minutes dated November 26, 2012.
- \*Rezoning Ordinance R-2012-19 as amended with Use and Development Commitment.
- \*Ordinance F-2012-22 as amended.
- \*Ordinance G-2012-23 as amended.
- \*Ordinances G-2012-27, G-2012-28, G-2012-29, G-2012-30
- \*A memo from Kevin Kirkwood regarding G-2012-26.
- \*Return receipts and inter-office reports for Ordinance G-2012-23.
- \*Evansville Redevelopment Commission Minutes from November 20, 2012.
- \*Monthly schedule of meetings in the City/County for December, 2012.
- \*Listing of City Council Appointments for various boards with expiration dates.
- \*2012 PERF Spreadsheet from Controller Russell G. Lloyd.
- \* A memo from Controller Russell G. Lloyd and the August 31, 2012 Fund Balance.

**ON YOUR DESK THIS EVENING:**

- \*Councilmanic District Maps (2012 and proposed 2013).

Councilman Mosby moved and Councilman Riley

seconded the motion to receive, file and make these reports and communications a part of

the minutes of the meeting. Voice vote. Y So ordered. ✓

**CONSENT AGENDA**

**FIRST READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-27                      A.S.D.                      MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for the Taxicabs for Yellow Cab/Checker Cab for 2013

**ORDINANCE G-2012-28                      A.S.D.                      MOSBY**

An Ordinance amending Chapter 8.10 (Nuisances) of the Evansville Municipal Code (Abandoned Vehicles)

**ORDINANCE G-2012-29                      A.S.D.                      MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for the Taxicabs for Dave's Taxi Service for 2013

**ORDINANCE G-2012-30                      A.S.D.                      MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for the Taxicabs for Mighty Cab, LLC for 2013

Is there a motion to adopt the Consent Agenda, First Reading as written?

Councilman Riley moved and Councilman O'Daniel seconded the

Motion to adopt the Consent Agenda First Reading as written. Voice vote. So ordered.

**CONSENT AGENDA**

**SECOND READING OF ZONING ORDINANCES**

**ORDINANCE R-2012-19 (amended) FROM APC R-1 to C-02 w/U & D Comm.**

An Ordinance to Rezone Certain Real Estate in the City of Evansville, State of Indiana, more commonly known as 4000 Washington Ave., Evansville, IN

Petitioner: David W. Johnson  
Owners: Ralph and Diane Sellers  
Representative: Steven Bohleber  
District: Dan McGinn, Ward 1

This petition comes forward with a recommendation for denial from the Area Plan Commission, having 12 negative votes. (This was prior to the Use and Development Commitment being filed)

Is there a motion to adopt the Consent Agenda Second Reading of Zoning Ordinances and to accept the Area Plan Commission Report?

Councilman O'Daniel moved and Councilman Riley seconded the motion

to adopt the Consent Agenda Second Reading of Zoning Ordinances and to accept the

Area Plan Commission Report. Voice vote. ✓ So ordered. ✓

Council now stands at Third Reading of Zoning Ordinances which is final action.

**REGULAR AGENDA**

**THIRD READING OF ZONING ORDINANCES**

**ORDINANCE R-2012-19 (amended) FROM APC R-1 to C-02 w/U & D Comm.**

An Ordinance to Rezone Certain Real Estate in the City of Evansville, State of Indiana,  
more commonly known as 4000 Washington Ave., Evansville, IN

Petitioner: David W. Johnson

Steven Boehleker  
William Battlett (Bill)  
Doug Greenfield (ERA)  
Jeralynn Caplan  
Dr. David Johnson  
Tom Bookin  
Lee Veezey (915 main St. <sup>Suite</sup> 502)  
831 S. Colony Rd  
Janet Greenwell  
Chris Wischer (Kamberger)  
Marty Amster  
Lee Veezey  
Mawna Klee 3919 Washington Ave  
Chris Schmidt  
Katherine Hubert  
Dr. Johnson  
Steven Boehleker

Is there a motion to adopt Ordinance R-2012-19 as amended with Use and Development Commitment and call the roll?

Councilman Mosby moved and Councilman Adams seconded the  
motion to adopt Ordinance R-2012-19 as amended and call the roll.

**ROLL CALL**

☒ MCGINN

☒ FRIEND

☒ O'DANIEL

☒ MOSBY

☒ LINDSEY

☒ WEAVER

☒ BRINKERHOFF-RILEY

☒ ADAMS

☒ ROBINSON

There being 3 Ayes and 6 Nays, Ordinance R-2012-19 is hereby declared  
ADOPTED DENIED.

**CONSENT AGENDA**

**SECOND READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-23 (amended) PUBLIC WORKS** **McGINN**

An Ordinance to vacate a platted public way or place (Cring Ave.)

**ORDINANCE G-2012-24** **A.S.D.** **MOSBY**

An Ordinance amending Chapter 12.05 of the Evansville Municipal Code (Streets and Sidewalks)

**ORDINANCE G-2012-25** **PUBLIC WORKS** **McGINN**

An Ordinance amending Chapter 1.10 and Establishing New Councilmanic Districts

**ORDINANCE G-2012-26** **A.S.D.** **MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for Taxicabs for Unity Taxi

**ORDINANCE F-2012-22 amended FINANCE** **FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing transfers of appropriations, additional appropriations and repeal and re-appropriation of funds for various city funds

**ORDINANCE F-2012-23** **FINANCE** **FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing additional appropriations of funds for Fire Riverboat

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**COMMITTEE REPORTS:**

**PUBLIC WORKS COMMITTEE:** **CHAIRMAN M<sup>c</sup>GINN**

**Councilman M<sup>c</sup>Ginn:** Madam President, your Public Works Committee met this evening to hear Ordinances G-2012-23 as amended and G-2012-25 and they come forward with a (do pass)do not pass) recommendation.

**A.S.D. COMMITTEE:** **CHAIRWOMAN MOSBY**

**Councilwoman Mosby:** Madam President, your A.S.D. Committee met this evening to hear Ordinance G-2012-24 and G-2012-26 and both come forward with a (do-pass)do not-pass) recommendation.

**FINANCE COMMITTEE:** **CHAIRMAN FRIEND**

**Councilman Friend:** Madam President, your Finance Committee met this evening to hear Ordinances F-2012-22 as amended and F-2012-23 and they come forward with a (do-pass)do not pass) recommendation.

Councilman O'Daniel moved and Councilman Mosby seconded the motion to accept the committee reports and move these ordinances to Third Reading.

Voice vote. So ordered.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-23 (amended) PUBLIC WORKS**

**McGINN**

An Ordinance to vacate a platted public way or place (Cring Ave.)

Is there a motion to adopt Ordinance G-2012-23 as amended and call the roll?

Councilman Mosby moved and Councilman O'Daniel seconded the motion to adopt Ordinance G-2012-23 as amended and call the roll.

**ROLL CALL**

✓ M<sup>c</sup>GINN

✓ FRIEND

✓ O'DANIEL

✓ MOSBY

✓ LINDSEY

✓ WEAVER

✓ ~~BRINKERHOFF-RILEY~~

✓ ADAMS

✓ ROBINSON

There being 8 Ayes and 0 Nays, Ordinance G-2012-23 as amended is hereby declared ADOPTED/DENIED.



**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-24**

**A.S.D.**

**MOSBY**

An Ordinance amending Chapter 12.05 of the Evansville Municipal Code (Streets and Sidewalks)

Is there a motion to adopt Ordinance G-2012-24 and call the roll?

Councilman O'Daniel moved and Councilman Friend seconded the motion to adopt Ordinance G-2012-24 and call the roll.

**ROLL CALL**

☒ M<sup>c</sup>GINN

☒ FRIEND

☒ O'DANIEL

☒ MOSBY

☒ LINDSEY

☒ WEAVER

~~☒ BRINKERHOFF RILEY~~

☒ ADAMS

☒ ROBINSON

There being 8 Ayes and 0 Nays, Ordinance G-2012-24 is hereby declared  
ADOPTED/DENIED.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-25**

**PUBLIC WORKS**

**McGINN**

An Ordinance amending Chapter 1.10 and Establishing New Councilmanic Districts

County Commissioners  
County Clerk

Is there a motion to adopt Ordinance G-2012-25 and call the roll?

Councilman O'Daniel moved and Councilman Mosby seconded the motion to adopt Ordinance G-2012-25 and call the roll.

**ROLL CALL**

✓ M<sup>c</sup>GINN

✓ FRIEND

✓ O'DANIEL

✓ MOSBY

✓ LINDSEY

✓ WEAVER

~~BRINKERHOFF-RILEY~~

✓ ADAMS

✓ ROBINSON

There being 8 Ayes and 0 Nays, Ordinance G-2012-25 is hereby declared  
ADOPTED/DENIED.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE G-2012-26**

**A.S.D.**

**MOSBY**

An Ordinance for the Application for Certification of Convenience and Necessity for  
Taxicabs for Unity Taxi

Is there a motion to adopt Ordinance G-2012-26 and call the roll?

Councilman O'Daniel moved and Councilman Mosby seconded the  
motion to adopt Ordinance G-2012-26 and call the roll.

**ROLL CALL**

✓ MCGINN

✓ FRIEND

✓ O'DANIEL

✓ MOSBY

✓ LINDSEY

✓ WEAVER

~~BRINKERHOFF-RILEY~~

✓ ADAMS

✓ ROBINSON

There being 8 Ayes and 0 Nays, Ordinance G-2012-26 is hereby declared  
ADOPTED/DENIED.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE F-2012-22 amended FINANCE**

**FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing transfers of appropriations, additional appropriations and repeal and re-appropriation of funds for various city funds

Is there a motion to adopt Ordinance F-2012-22 as amended and call the roll?

Councilman Friend moved and Councilman Weaver seconded the motion to adopt Ordinance F-2012-22 as amended and call the roll.

**ROLL CALL**

✓ MCGINN

✓ FRIEND

✓ O'DANIEL

✓ MOSBY

✓ LINDSEY

✓ WEAVER

~~BRINKERHOFF RILEY~~

✓ ADAMS

✓ ROBINSON

There being 8 Ayes and 0 Nays, Ordinance F-2012-22 as amended is hereby declared ADOPTED.

**REGULAR AGENDA**

**THIRD READING OF ORDINANCES OR RESOLUTIONS**

**ORDINANCE F-2012-23**

**FINANCE**

**FRIEND**

An Ordinance of the Common Council of the City of Evansville Authorizing additional appropriations of funds for Fire Riverboat

Is there a motion to adopt Ordinance F-2012-23 and call the roll?

Councilman Friend moved and Councilman Mosby seconded the motion to adopt Ordinance F-2012-23 and call the roll.

**ROLL CALL**

✓ MCGINN

✓ FRIEND

✓ O'DANIEL

✓ MOSBY

✓ LINDSEY

✓ WEAVER

BRINKERHOFF-RILEY

✓ ADAMS

✓ ROBINSON

There being 8 Ayes and 0 Nays, Ordinance F-2012-23 is hereby declared  
ADOPTED/DENIED.

**MISCELLANEOUS BUSINESS**

There will be a regular City Council meeting next Monday, December 17, 2012 at 5:30 p.m. Committee meetings will begin at 5:15 p.m. on December 17, 2012. There will not be any City Council meetings on Monday, December 24<sup>th</sup> (Christmas Eve) or Monday, December 31<sup>st</sup> (New Year's Eve). The first meeting of 2013 will be Monday, January 7, 2013.

**COMMITTEE REPORTS:**

**A.S.D. COMMITTEE:**

Re: Ordinance G-2012-28  
Date: December 17, 2012  
Time: 5:15 p.m.  
Notify: Ted Ziemer

**CHAIRWOMAN MOSBY**

Amending Chapter 8.10 (Nuisances)  
of the Evansville Municipal Code

Re: Ordinance G-2012-27  
Date: December 17, 2012  
Time: 5:20 p.m.  
Notify: Heather Williams

Application for Certificate of Convenience  
and Necessity for Taxicab  
(River City Yellow Cab/Checker Cab)

Re: Ordinance G-2012-29  
Date: December 17, 2012  
Time: 5:25 p.m.  
Notify: David Goldblatt

Application for Certificate of Convenience  
and Necessity for Taxicab  
(Dave's Taxi Service)

Re: Ordinance G-2012-30  
Date: December 17, 2012  
Time: 5:30 p.m.  
Notify: John Noback

Application for Certificate of Convenience  
and Necessity for Taxicab  
(Mighty Cab LLC)

**FINANCE COMMITTEE:**

Nothing scheduled at this time.

**CHAIRMAN JOHN FRIEND**

**PUBLIC WORKS COMMITTEE:**

Nothing scheduled at this time.

**CHAIRMAN DAN MCGINN**

**ADJOURNMENT**

Councilman Mosby moved and Councilman Weaver

seconded the motion to adjourn. Voice Vote. ✓ So Ordered. ✓

Meeting adjourned at 8:31 p.m.

**City of Evansville, IN  
August 2012**

*8/31/12 balances*

**Questions:**

**General Fund – Negative Balance = 1,550K**

**Cash community dev block grant – Negative Balance = 557k**

**Cash Emerg Shelter Grt – Negative Balance = 39k**

**Cash Home Admin – Negative Balance = 148k**

**CASH BALANCES**

**Riverboat fund – Decline of 369k**

**Local Option – Decline of 43k**

**Hospital Insurance – Decline of 1,970k**

**Workmen's Comp – Decline of 218k**

**Liability Insurance – Decline of 132k**

**Fire Pension – Decline of 430k**

**Police Pension – Decline of 564k**

**TOTAL OF ALL EXCEPT LEVY – DECLINE OF 2,716K**

**Levy – Increase of 847k**

**Apparent anticipated various to budget:**



**General Fund – Annualized to 43,241k projected shortfall of 15,000k -  $29,131k/8 \times 12 = 43,241k$  Budget = 58,000k**

**Finance Fund – Annualized to 1,438k, budget = 1,819k negative variance projected = 381k**

**Mets – Annualized to 3,912k budget = 3,551k positive variance of 361k**

**Total General Fund Revenue – Annualized to 66,711k Budget = 79,563k projected negative variance = 12,852k**

**Highway Fund – Annualized to 4,358k Budget = 4,196k Positive projected variance = 162k**

**Traffic Engineer – Annualized to 338k Budget = 429K Negative projected variance = 91k**

**City Engineer – Annualized to 1,951 Budget = 1,629 Positive projected variance = 323k**

**Soccer – Annualized to 48k Budget = 118k Projected negative variance = 70k**

**Park Administration – Annualized to 11,361 Budget = 8,107 Negative projected variance = 3,746k**

**Zoo – Annualized to 1,426 Budget = 1,191 Positive variance = 235k**

**Swonder – Annualized to 636k Budget = 701k Negative = 65k**

**Other Pools – Annualized to 82k Budget = 105k Negative = 20k**

**TOTAL REVEUE – ANNUALIZED TO 7,009K BUDGET =  
10,572K NEGATIVE = 3,563K**

# **City of Evansville**

## **Controllers Office**

**Room 300, 1 NW Martin Luther King Jr., Blvd.**

**Evansville, IN 47708**

**(812) 436-4919**

## **MEMORANDUM**

To: Honorable Members of Common Council  
City of Evansville  
From: Russell Lloyd Jr. *ryl*  
Date: December 6, 2012  
Subject: 2012 Questions - Fund Balance changes (Councilman Friend)

Dear Council Members:

I've attached the list from Councilman Friend inquiring about fund balance changes from Jan. 1 2012 to August 31, 2012 (8 months).

<u>Fund</u>	<u>1/1/12</u>	<u>8/31/12</u>
0101 Cash General Fund	\$ 4,354,137	\$ (1,685,383)

Seasonal fluctuations due to irregular receipts combined with regular disbursements. When property tax receipts are received in November and December the fund levels will be restored.

0231 Comm. Dev. Block Grant	(1,266,277)	(577,128)
-----------------------------	-------------	-----------

This is a DMD HUD CDBG fund. The City has to request draw funds from HUD. As of Oct. 31 the draws were made, Fund 0231 balance = \$ 277,841.

0279 Emergency Shelter Grant	(156,515)	(39,016)
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This is a DMD HUD CDBG fund. The City has to request draw funds from HUD. This draw request still has to be made. City policy is to have no negative fund balances at period end, request made to DMD for HUD draw.

0283 DMD Home Administration	25,067	(147,692)
------------------------------	--------	-----------

This is a DMD HUD CDBG fund. The City has to request draw funds from HUD. As of Oct. 31 the draws were made, Fund 0283 balance = \$101,001.

CASH BALANCES:

<u>Fund</u> (Cash + Investments)	<u>1/1/12</u>	<u>8/31/12</u>
0446 Riverboat Fund	\$ 14,100,277	\$ 12,539,725

This is a temporary decline. The fund balance has been restored as of Oct. 31, Fund 0446 balance cash + investments = \$ 14,436,834.

0474 Local Income Tax Fund	9,361,791	9,972,482
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This is a temporary decline. The fund balance has been restored as of Oct. 31, Fund 0474 balance cash + investments = \$ 10,478,645.

0704 Hospital Insurance Fund	5,668,108	1,272,346
------------------------------	-----------	-----------

This is a temporary decline. The City departments and agencies have to be "billed" for 3<sup>rd</sup> quarter hospitalization premiums. When billing is done the fund balance will be restored.

0706 Workman's Compensation Fund	710,137	499,965
----------------------------------	---------	---------

This is a temporary decline. The City departments and agencies have to be "billed" for 3<sup>rd</sup> quarter workman's compensation premiums. When billing is done the fund balance will be restored.

0707 Liability Insurance Fund	1,662,694	1,530,384
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This fund is set at the beginning of the year and pays out as claims processed. The City departments and agencies have to be "billed" for 3<sup>rd</sup> quarter liability insurance premiums. When billing is done the fund balance will be restored.

0801 Fire Pension Fund	4,319,120	3,889,587
------------------------	-----------	-----------

This is a temporary decline. The State of Indiana reimburses the City semi-annually for payments to beneficiaries while the City makes payments monthly. While this Fund balance may fluctuate there are current funds on hand and projected revenues to pay all beneficiaries. The Fund revenues and expenditures are reviewed during the budget process.

0802 Police Pension Fund	3,906,696	3,342,418
--------------------------	-----------	-----------

This is a temporary decline. The State of Indiana reimburses the City semi-annually for payments to beneficiaries while the City makes payments monthly. While this Fund balance may fluctuate there are current funds on hand and projected revenues to pay all beneficiaries. The Fund revenues and expenditures are reviewed during the budget process.

0920 Evansville Vand. Levy Authority	3,152,028	3,987,335
--------------------------------------	-----------	-----------

This increase is due to lower amounts of small tool and repair expenses than prior year.

## REVENUES:

<u>Fund</u>	<u>Revised Budget</u>	<u>8/31/12</u>
1001 Gen. Misc. Finance	\$ 57,957,651	\$ 28,827,129

The \$ 58 million revised budget will be close or slightly lower. 311000 Property Tax should come in at \$51 mil. target, 335010 Fincl Inst and 335020 Auto Excise, 335100 Cigarette Tax will receive pays in Dec. 349040 In Lieu of Tax (PILOT Utility) made \$500,825 in Oct., final payt \$500,825 in Dec.

1301 Gen. Finance	1,819,126	958,593
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This will come in less than budget by approximately (\$250,000). 364000 Insight Cable revenue higher by \$28,780 but 361000 Interest Income budget error way overstated \$300,000 should be \$60,000. As of Nov. 30 Total 1301 Finance revenues = \$1,483,751.

1603 METS	3,551,496	2,608,188
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This will come in higher than projected by \$800,000 to \$1.0 mil. Accounts higher than budget include 331010 Fed Grant Gen, 334010 State IN Grant Gen, 343100 METS Fares, 343101 METS Promotions, and 343103 USI Special Bus. As of Nov. 30 Total 1603 METS revenues = \$4,150,988.

0101 General Fund	Total	79,563,164	44,473,930
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This may come in slightly lower than projected by \$2.0 to 4.5 mil. As of Nov. 30 total Fund 0101 General fund revenues = \$ 60,794,342.

1607 Highway Fund	4,195,872	2,905,239
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This may come in slightly lower than projected by \$150,000 to \$300,000. 335062 State MVH Distrib. will be lower than budget. As of Nov. 30 Total 1607 Highway Fund revenues = \$3,668,452.

1608 Traffic Engineer Fund	428,806	225,511
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This will come in slightly lower than projected \$50,000 to \$80,000. As of Nov. 30 Total 1608 Traffic Engineer revenues = \$350,680.

4501 City Engineer Fund	1,628,528	526,895
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This Fund will come in HIGHER than projected by \$100,000 to \$130,000. 334111 State GRT Transportation will be HIGHER than budget by \$81,336 as of Nov. 30 For Nov. 30 Total 4501 City Engineer Fund revenues = \$1,713,646.

## REVENUES:

<u>Fund</u>	<u>Revised Budget</u>	<u>8/31/12</u>
3106 Soccer Fund	\$ 118,300	\$ 31,892

The Soccer Fund will be lower than revised budget by \$70,000 to \$80,000. 347070 Advertising, 347200 Admission Fees 347705 Soccer Fees are budget errors, estimated too high. As of Nov. 30 Total 3106 Soccer Fund revenues = \$ 37,316.

3109 Park Administration Fund	8,106,876	2,907,055
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This Fund will come in lower than projected by \$2.0 mil. to \$2.5 mil. 311000 Property Tax is overstated by \$1.8 mil. to \$2.0 mil. As of Nov. 30 Total 3109 Park Administration Fund revenues = \$3,537,334.

3111 Mesker Zoo	1,190,643	950,663
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Mesker Zoo should exceed the \$ 1.190 million revised budget by a small amount \$ 20,000 or so. 347200 Admission Fees are equal to budget \$706,000, all attendance related accounts 347020 Novelties, 347060 and 347061 Concessions, 347080 Rentals, 347089 Zoo Train, 347090 Strollers, and 347100 Zoo Boat Rentals are higher than budget with one month to go. As of Nov. 30 total Mesker Park Zoo revenues = \$ 1,158,968 only \$31,675 less than budget with one month to go and unseasonably warm weather.

3113 Swonder Arena	701,267	424,454
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3113 Swonder Arena will come in lower than the revised budget by \$60,000 to \$100,000. 347080 Rentals are much lower than budget \$106,732 vs. \$200,000 with one month to go. 347050 Gift Cards and 347060 Concessions are less than budget by \$14,000. As of Nov. 30 total Swonder Arena revenues = \$ 541,535.

3114 Other Pools	105,099	82,415
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3114 Other Pools will come in lower than budget by \$ 20,000 or so. The 3114 Other Pools revenues as of Nov. 30 = \$ 85,922.

Total Parks and Recreation Fund 0204 Revised Budget Revenues \$10,572,108, actual through Nov. 30 = \$5,960,505 with Dec. Property and other taxes, Zoo and other revenues should be around \$2.4 mil. to \$8.3 mil. Estimated deficit to budget (\$2.2 mil.).

Please contact me if you have any further questions.

2012 PERF Expense Divided Out by Department

ORG	DEPARTMENT	2012 Original Budget	All Transfers	All CASH	2013 PERF Expense	Expense Increase
1011101	Mayor	\$ 28,345.00	\$ 8,719.01		\$ 37,064.01	\$ 8,719.01
1011201	Human Relations	\$ 24,830.00	\$ -		\$ 24,830.00	\$ -
1011301	Finance	\$ 54,462.00	\$ 10,414.93		\$ 64,876.93	\$ 10,414.93
1011302	Purchasing	\$ 9,677.00	\$ 1,163.00		\$ 10,840.00	\$ 1,163.00
1011401	City Council	\$ 21,128.00	\$ 5,282.00		\$ 26,410.00	\$ 5,282.00
1011402	City Clerk	\$ 16,702.00	\$ 4,227.25		\$ 20,929.25	\$ 4,227.25
1011403	Parking Meter	\$ 17,033.00	\$ 4,258.25		\$ 21,291.25	\$ 4,258.25
1011501	Law Department	\$ 21,890.00	\$ (16,819.57)		\$ 5,070.43	\$ (16,819.57)
1011601	Public Works	\$ 40,656.00	\$ -	\$ 7,358.02	\$ 48,014.02	\$ 7,358.02
1011602	Animal Control	\$ 47,663.00	\$ -	\$ 12,955.53	\$ 60,618.53	\$ 12,955.53
1011603	METS	\$ 378,704.00	\$ -	\$ 120,787.49	\$ 499,491.49	\$ 120,787.49
1011604	Locust Hill	\$ 9,959.00	\$ 2,083.46	\$ 1,500.00	\$ 13,542.46	\$ 3,583.46
1011606	Oak Hill	\$ 25,274.00	\$ 2,619.52	\$ 12,200.00	\$ 40,093.52	\$ 14,819.52
1011701	Central Dispatch	\$ 258,130.00	\$ 41,492.44	\$ 27,000.00	\$ 326,622.44	\$ 68,492.44
1011801	Building Commission	\$ 41,461.00	\$ 26,500.00		\$ 67,961.00	\$ 26,500.00
1011901	Police	\$ 3,201,022.00	\$ 163,251.07	\$ 580,000.00	\$ 3,944,273.07	\$ 743,251.07
1012101	Fire	\$ 3,004,283.00	\$ -	\$ 767,000.00	\$ 3,771,283.00	\$ 767,000.00
1012201	EPA	\$ 27,056.00	\$ 5,256.00		\$ 32,312.00	\$ 5,256.00
1012301	Emergency MA	\$ 16,096.00	\$ 4,946.00		\$ 21,042.00	\$ 4,946.00
1012401	Personnel	\$ 19,663.00	\$ 7,500.00		\$ 27,163.00	\$ 7,500.00
1017101	Dept of Metro	\$ 90,646.00	\$ 12,500.00		\$ 103,146.00	\$ 12,500.00
1017501	Code Enforcement	\$ 59,609.00	\$ 10,000.00		\$ 69,609.00	\$ 10,000.00
<b>General Fund Total</b>		<b>\$ 7,414,289.00</b>	<b>\$ 293,393.36</b>	<b>\$ 1,528,801.04</b>	<b>\$ 9,236,483.40</b>	<b>\$ 1,822,194.40</b>

2011607	Motor VH	\$ 219,326.00	\$ 25,301.09		\$ 244,627.09	\$ 25,301.09
2011608	Traffic Engineer	\$ 61,685.00	\$ 10,635.77		\$ 72,320.77	\$ 10,635.77
2011609	Urban Forestry	\$ 6,162.00	\$ 1,427.34		\$ 7,589.34	\$ 1,427.34
2024501	City Engineer	\$ 62,304.00	\$ 14,209.25		\$ 76,513.25	\$ 14,209.25
<b>MVH &amp; LRS Total</b>		<b>\$ 349,477.00</b>	<b>\$ 51,573.45</b>	<b>\$ -</b>	<b>\$ 401,050.45</b>	<b>\$ 51,573.45</b>

2012 PERF Expense Divided Out by Department

ORG	DEPARTMENT	2012 Original Budget	All Transfers	All CASH	2013 PERF Expense	Expense Increase
2043105	Lloyd Pool	\$ 4,787.00	\$ -	\$ 187.36	\$ 4,974.36	\$ 187.36
2043106	Soccer	\$ 10,154.00	\$ -	\$ 139.29	\$ 10,293.29	\$ 139.29
2043107	District Maintenance	\$ 71,902.00	\$ 281.78	\$ 22,973.58	\$ 95,157.36	\$ 23,255.36
2043109	Park Administration	\$ 29,118.00	\$ -	\$ 3,571.80	\$ 32,689.80	\$ 3,571.80
2043111	Mesker Park Zoo	\$ 203,243.00	\$ 50,000.00		\$ 253,243.00	\$ 50,000.00
2043113	Swonder Arena	\$ 34,184.00	\$ -	\$ 9,283.02	\$ 43,467.02	\$ 9,283.02
<b>Parks Total</b>		<b>\$ 353,388.00</b>	<b>\$ 50,281.78</b>	<b>\$ 36,155.05</b>	<b>\$ 439,824.83</b>	<b>\$ 86,436.83</b>
2113202	Fendrich Golf	\$ 16,909.00	\$ -	\$ 4,900.71	\$ 21,809.71	\$ 4,900.71
2113203	Helfrich Golf	\$ 16,787.00	\$ 3,000.00	\$ 4,886.91	\$ 24,673.91	\$ 7,886.91
2113204	Mcdonald Golf	\$ 16,475.00	\$ -	\$ 4,585.44	\$ 21,060.44	\$ 4,585.44
2703119	Sports NR	\$ 15,209.00	\$ -	\$ 3,920.79	\$ 19,129.79	\$ 3,920.79
2837263	DMD Home Grant	\$ -	\$ 2,184.73		\$ 2,184.73	\$ 2,184.73
<b>Golf &amp; Misc Total</b>		<b>\$ 65,380.00</b>	<b>\$ 5,184.73</b>	<b>\$ 18,293.85</b>	<b>\$ 88,858.58</b>	<b>\$ 23,478.58</b>
6019001	Water Admin	\$ 144,009.00	\$ -	\$ 37,000.00	\$ 181,009.00	\$ 37,000.00
6019002	Water Filter	\$ 126,123.00	\$ -	\$ 33,000.00	\$ 159,123.00	\$ 33,000.00
6019003	Water Distribution	\$ 190,412.00	\$ -	\$ 46,000.00	\$ 236,412.00	\$ 46,000.00
6019004	Water Meter	\$ 184,911.00	\$ -	\$ 45,000.00	\$ 229,911.00	\$ 45,000.00
6019005	Water Planning	\$ 49,812.00	\$ -	\$ 11,000.00	\$ 60,812.00	\$ 11,000.00
<b>Water Total</b>		<b>\$ 695,267.00</b>	<b>\$ -</b>	<b>\$ 172,000.00</b>	<b>\$ 867,267.00</b>	<b>\$ 172,000.00</b>



2012 PERF Expense Divided Out by Department

ORG	DEPARTMENT	2012 Original Budget	All Transfers	All CASH	2013 PERF Expense	Expense Increase
6060101	Sewer Admin	\$ 27,004.00	\$ -	\$ 7,500.00	\$ 34,504.00	\$ 7,500.00
6060201	Sewer Treatment	\$ 214,548.00	\$ -	\$ 52,000.00	\$ 266,548.00	\$ 52,000.00
6060301	Sewer Maintenance	\$ 178,951.00	\$ -	\$ 54,000.00	\$ 232,951.00	\$ 54,000.00
6060401	Sewer Pretreatment	\$ 43,077.00	\$ -	\$ 11,500.00	\$ 54,577.00	\$ 11,500.00
Sewer Total		\$ 463,580.00	\$ -	\$ 125,000.00	\$ 588,580.00	\$ 125,000.00
7046101	Hospitalization Ins	\$ 18,696.00	\$ 4,600.00		\$ 23,296.00	\$ 4,600.00
7066401	Worker Comp	\$ 5,907.00	\$ -		\$ 5,907.00	\$ -
Hospitalization Total		\$ 24,603.00	\$ 4,600.00	\$ -	\$ 29,203.00	\$ 4,600.00
9206701	Levee Authority	\$ 73,213.72	\$ 14,000.00		\$ 87,213.72	\$ 14,000.00
Levee Total		\$ 73,213.72	\$ 14,000.00	\$ -	\$ 87,213.72	\$ 14,000.00
9306601	Solid Waste	\$ 12,677.77	\$ 3,900.00		\$ 16,577.77	\$ 3,900.00
Solid Waste Total		\$ 12,677.77	\$ 3,900.00	\$ -	\$ 16,577.77	\$ 3,900.00
Total All		\$ 9,451,875.49	\$ 422,933.32	\$ 1,880,249.94	\$ 11,755,058.75	\$ 2,303,183.26

	Additional PERF	Transfer	Cash Balance
General Fund	\$ 1,822,194.40	\$ 293,393.36	\$ 1,528,801.04
MVH & LRS	\$ 51,573.45	\$ 51,573.45	\$ -
Parks	\$ 86,436.83	\$ 50,281.78	\$ 36,155.05
Golf & Misc	\$ 23,478.58	\$ 5,184.73	\$ 18,293.85
Water	\$ 172,000.00	\$ -	\$ 172,000.00
Sewer	\$ 125,000.00	\$ -	\$ 125,000.00
Hospitalization	\$ 4,600.00	\$ 4,600.00	\$ -
Levee	\$ 14,000.00	\$ 14,000.00	\$ -
Solid waste	\$ 3,900.00	\$ 3,900.00	\$ -
Total Additional Perf	\$ 2,303,183.26	\$ 422,933.32	\$ 1,880,249.94

STREET MAINTENANCE DEPARTMENT  
1304 WATERWORKS ROAD  
EVANSVILLE, INDIANA 47713  
(812) 435-6000

MEMORANDUM

From: Employees of the Street Maintenance Department (SMD)  
To: Transportation and Services, City Council Members and Mayor Winnecke  
Date: November 14, 2012  
Subject: Christmas Luncheon at the Street Maintenance Department

On behalf of the Employees of the Street Maintenance Department we would like to invite you and your staff to the combined Street Maintenance, Traffic Engineering City Maintenance, and Urban Forestry annual Christmas luncheon on **December 14, 2012 at 11:00**. Mr. Mike Weimer and Mr. David McKasson are putting together a variety of foods, such as, barbequed pulled pork, fried chicken, corn, green beans, cold slaw and several deserts.

The Street Maintenance Department facility Annual Christmas luncheon is a good time to see old friends and meet new friends that work for the City of Evansville. This will be an opportunity for everyone to get acquainted.

This Memorandum is being sent early to ensure that everyone can place this date and time on their calendars.

The folks at the Street Maintenance, Traffic Engineering, City Maintenance and Urban Forestry Departments look forward to seeing you at the luncheon.

Dennis Hudnall, Superintendent  
Street Maintenance Department